

DOCUMENT RESUME

ED 316 911

EA 021 219

TITLE Compiled School Laws of Alaska, 1989.
INSTITUTION Alaska State Dept. of Education, Juneau.
PUB DATE Jan 89
NOTE 409p.
PUB TYPE Books (010) -- Legal/Legislative/Regulatory Materials
(090)

EDRS PRICE MF01/PC17 Plus Postage.
DESCRIPTORS Elementary Secondary Education; Laws; *Legal
Responsibility; *School Law; *State Legislation;
State Standards
IDENTIFIERS *Alaska

ABSTRACT

This document contains a compiled listing of the school laws of Alaska. The laws, divided into 60 chapters, fall under the two main categories of: "Education" and "Miscellaneous Laws Relating to Education." (KM)

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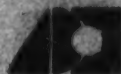
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January 1989

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OF THE
STATE OF ALASKA

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Title 14. Education.

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- 60. General Provisions (§ 14.60.010)

§ 14.03.010 COMPILED SCHOOL LAWS OF ALASKA § 14.03.010

Revisor's notes. — The provisions of this title were redrafted in 1982 and 1987 to remove personal pronouns pursuant to

§ 4, ch. 58, SLA 1982 and to make other minor word changes.

NOTES TO DECISIONS

"Public employees." — The legislature chose to define "public employees" as excluding teachers from the Public Employment Relations Act because the cooperative relations purpose of that act was

already fulfilled with regard to teachers under the provisions of this title. *Anchorage Educ. Ass'n v. Anchorage School Dist.*, Sup. Ct. Op. No. 2437 (File No. 4021), 648 P.2d 993 (1982).

Chapter 03. Public Schools Generally.

Section

- 10. Establishment of school system
- 20. School year
- 30. School term
- 40. Day in session
- 50. School holidays
- 60. Elementary, junior high, and secondary schools
- 70. School age
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- 83. Contracting for services
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- 90. Sectarian or denominational doctrines prohibited
- 100. Use of school facilities
- 110. Questionnaires and surveys administered in public schools
- 130. Display of flag
- 140. Emergency drills

Collateral references. — 68 Am. Jur. 2d Schools § 1 et seq.

78 C.J.S. Schools and School Districts, §§ 1, 2, 12 et seq.

Equivalence of educational facilities extended by public school system to members of white and members of colored race. 103 ALR 713.

Residence for purpose of admission to public school. 83 ALR2d 497; 56 ALR3d 641.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Noncustodial parent's rights as respects education of child. 36 ALR3d 1093.

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.03.010. Establishment of school system. There is established in the state a system of public schools to be administered and maintained as provided in this title. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

This title was enacted pursuant to Alaska Const., art. VII, § 1. *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

History of public education in Alaska. — See *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

§ 14.03.020 COMPILED SCHOOL LAWS OF ALASKA 14.03.040

Collateral references. — Incorporated educational body as an institution belonging to the state. 65 ALR 1394.

What is common or public school within contemplation of constitutional or statutory provisions. 113 ALR 697.

Sec. 14.03.020. School year. The school year begins on the first day of July and ends on the 30th day of June. (§ 1 ch 98 SLA 1966)

Sec. 14.03.030. School term. A school term begins and ends on the dates fixed by the governing body of a school district. A school term shall include not less than 180 days in session, except that, with the approval of the commissioner,

(1) a day used for in-service training of teachers may be substituted for a day in session, up to a maximum of 10 days;

(2) an "emergency closure day" may be substituted for a day in session because of conditions posing a threat to the health or safety of students; and

(3) a school board may adopt a school term of not less than 150 days for a school if the commissioner finds that

(A) the shorter term is necessary for abating asbestos health hazards in the school; and

(B) the school board has submitted an acceptable plan under which students will receive the approximate educational equivalent of a 180-day term. (§ 1 ch 98 SLA 1966; am § 1 ch 65 SLA 1972; am § 1 ch 137 SLA 1976; am § 1 ch 24 SLA 1979; am § 1 ch 61 SLA 1983; am § 1 ch 71 SLA 1985)

Effect of amendments. — The 1983 amendment added the paragraph (1) designation, made a related word change in that paragraph, and added paragraph (2). The 1985 amendment substituted "A

school" for "However, the" and "with" for "subject to" in the second sentence in the introductory language, added paragraph (3), and made minor word and punctuation changes throughout the section.

Sec. 14.03.040. Day in session. Each day within the school term is a day in session except Saturdays, Sundays, and days designated as holidays by or according to AS 14.03.050. A school board may approve Saturdays as a day in session. The day in session in every school shall be at least four hours long, exclusive of intermissions, for the first, second, and third grades and five hours, exclusive of intermissions, for all other grades. The commissioner may approve a shorter day in session for any grade. The period of the day in session shall be devoted to the instruction of pupils or to study periods for the pupils. (§ 1 ch 98 SLA 1966; am § 2 ch 137 SLA 1976)

Sec. 14.03.050. School holidays. (a) Public schools may not be in session on school holidays which are Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Christmas Day, New Years Day, Memorial Day, and the Fourth of July. If one of these holidays falls on a Saturday, the Friday immediately preceding is a school holiday. If one of these holidays falls on a Sunday the Monday immediately following is a school holiday. A teacher may not be required to perform employment services on these holidays, nor may the salary of a teacher be diminished because the teacher does not perform employment services on a school holiday.

(b) The public schools shall be in session on all other holidays falling upon school days and shall conduct appropriate exercises in recognition of the day.

(c) The governing body of the school district may declare additional holidays. (§ 1 ch 98 SLA 1966)

Sec. 14.03.060. Elementary, junior high, and secondary schools. (a) An elementary school consists of grades kindergarten through grade eight or any appropriate combination of grades within this range.

(b) A secondary school consists of grades seven through 12 or any appropriate combination of grades within this range. The establishment of one or two grades beyond the 12th grade is optional with the governing body of the school district.

(c) Grades seven through eight, nine, and ten or any appropriate combination of grades within this range may be organized as a junior high school.

(d) This section does not prevent a high school from issuing a diploma to a student who has completed the 12th grade. (§ 1 ch 98 SLA 1966)

Collateral references. — Kindergarten or specialized departments, power and duty of school authorities to maintain. 70 ALR 1313.

Zoning regulations as applied to public elementary and high schools. 74 ALR3d 136.

Sec. 14.03.070. School age. A child who is six years of age before August 15 following the beginning of the school year, and who is under the age of 20 and has not completed the 12th grade, is of school age. (§ 1 ch 98 SLA 1966; am § 1 ch 1 FSSLA 1987; am § 19 ch 85 SLA 1988)

Effect of amendments. — The 1988 amendment, effective July 1, 1988, substituted "before August 15 following" for "or who will become six years of age before August 15 preceding."

Legislative history reports. — For an

analysis of the amendment to this section by sec. 19, ch. 85, SLA 1988 (HCS CSSB 413 (Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988 p. 5.

Sec. 14.03.080. Free education. (a) A child of school age is entitled to attend public school without payment of tuition during the school term in the school district in which the child is a resident subject to the provisions of AS 14.14.110 and AS 14.14.120.

(b) A person over school age may be admitted to the public school in the school district in which the person is a resident at the discretion of the governing body of the school district. A person over school age may be charged tuition by the governing body of the school district.

(c) A child under school age may be admitted to the public school in the school district of which the child is a resident at the discretion of the governing body of the school district if the child meets minimum standards prescribed by the board evidencing that the child has the mental, physical and emotional capacity to perform satisfactorily for the educational program being offered.

(d) A child who is five years of age before August 15 following the beginning of the school year, and who is under school age, may enter a public school kindergarten.

(e) A child under school age shall be admitted to school in the district of which the child is a resident if immediately before the child became a resident of the district, the child was legally enrolled in the public schools of another district or state. (§ 1 ch 98 SLA 1966; am § 1 ch 64 SLA 1972; am § 2 ch 1 FSSLA 1987; am § 20 ch 85 SLA 1988)

Effect of amendments. — The 1988 amendment, effective July 1, 1988, substituted "following" for "preceding" in subsection (d).

Legislative history reports. — For an

analysis of the amendment to (d) of this section by sec. 20, ch. 85, SLA 1988 (HCS CSSB 413 (Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988 p. 5.

NOTES TO DECISIONS

Notice of school closure. — The importance of the educational and property interests involved in the closure of neighborhood schools in a school district requires adequate notice of the school board meeting at which the decision was made to close a specific school and five-day notice of the meeting is insufficient. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

A five-day notice of which schools in a school district are subject to closure militates against appropriate preparation and poses serious obstacles to the presentation of persuasive, properly researched, and supported opposition to any closure plan. It also lessens the likelihood of a fair hearing before the school board and of the school board reaching a reasoned administrative decision. *Tunley v. Municipality of*

Anchorage School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Given the critical importance of education to democratic society, the significant interests of the plaintiff as a taxpayer-owner of real property affected by the closure of the school nearest the plaintiff, and the important interests of both plaintiff's child, and the plaintiff as a parent, in the educational considerations involved, the plaintiff has rights subject to procedural due process protection, which due process rights to notice and an opportunity to be heard are independent of the requirement under the city's charter for an ordinance setting forth notice provisions for school board meetings. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

§ 14.03.083 COMPILED SCHOOL LAWS OF ALASKA § 14.03.100

Collateral references. — Free textbooks and other school supplies for individual use of pupils. 17 ALR 299; 67 ALR 1196.

Validity of exaction of fees from children attending elementary or secondary public schools. 41 ALR3d 752.

Sec. 14.03.083. Contracting for services. (a) A school district may contract for educational services provided to students in the district by an agency which is accredited by the Department of Education under AS 14.07.020 and (b) of this section.

(b) The Department of Education shall adopt regulations and establish program standards for educational services which may be contracted for by a school district.

(c) Expenses incurred by the department in accrediting the agency and program shall be borne by the agency seeking accreditation. (§ 1 ch 49 SLA 1973)

Collateral references. — Right of municipal corporation to recover back from contractor payments made under contract

violating competitive bidding statute. 33 ALR3d 397.

Sec. 14.03.085. Procurement preference for recycled Alaska products. A school district shall comply with AS 29.71.050, except that in AS 29.71.050(a) — (e) and (g), "municipal" and "municipality" are read as "school district." In this section, "school district" does not include regional educational attendance areas. (§ 1 ch 63 SLA 1988)

Revisor's notes. — In 1988, an editorial correction was made in AS 29.71.050(b) to reflect changes made by ch. 64, SLA 1988. Because of that correction, when applying AS 29.71.050, a school district should read the reference to "AS 29.71.040" in AS 29.71.050(b) as referring to "AS 36.15.050." Amendments to

AS 14.03.085 to harmonize the two 1988 enactments and complete the necessary corrections will be proposed in 1989.

Cross references. — For requirement that school districts, including REAA's, that receive state money comply with agricultural and fisheries products preference laws, see AS 36.15.050.

Sec. 14.03.090. Sectarian or denominational doctrines prohibited. Partisan, sectarian, or denominational doctrines may not be advocated in a public school during the hours the school is in session. A teacher or school board violating this section may not receive public money. (§ 1 ch 98 SLA 1966)

Collateral references. — What constitutes "prayer" under federal constitu-

tional prohibition of prayer in public schools. 30 ALR3d 1352.

Sec. 14.03.100. Use of school facilities. The governing body of a school district may allow the use of school facilities for any legal gatherings or assemblies. The governing body shall adopt bylaws that will insure reasonable and impartial use of the facilities. (§ 1 ch 98 SLA 1966)

Collateral references. — Power of school authorities to provide gymnasium or athletic field and equipment for same. 69 ALR 871.

Constitutionality, construction, and application of statutes declaring that school buildings are civic centers, or otherwise providing for use of such buildings for other than school purposes. 79 ALR2d 1148; 94 ALR2d 1274.

Use of school property for other than

public school or religious purposes. 94 ALR2d 1274.

Tort liability of public schools and institutions of higher learning for accidents occurring during use of premises and equipment for other than school purposes. 37 ALR3d 712.

Validity and construction of statute or ordinance forbidding unauthorized persons to enter upon or remain in school building or premises. 50 ALR3d 340.

Sec. 14.03.110. Questionnaires and surveys administered in public schools. A school district, principal or other person in charge of a public school, or teacher in a public school may not administer or permit to be administered in a school any questionnaire or survey, whether anonymous or not, which inquires into private family affairs of the student not a matter of public record or subject to public observation unless written permission is obtained from the student's parent or guardian. (§ 1 ch 23 SLA 1979)

Sec. 14.03.130. Display of flag. United States and Alaska flags shall be displayed upon or near each principal school building during school hours and at other times the governing body considers proper. (§ 1 ch 98 SLA 1966)

Collateral references. — Power of legislature or school authorities to prescribe and enforce oath of allegiance, "salute to

flag," or other ritual of a patriotic character. 110 ALR 383; 120 ALR 655; 127 ALR 1502; 141 ALR 1030; 147 ALR 698.

Sec. 14.03.140. Emergency drills. The principal or other persons in charge of each public or private school or educational institution shall instruct and train pupils by means of drills so that in an emergency they may be able to leave the school building in the shortest possible time without confusion or panic. Drills shall be held at least once each month during the school term, weather permitting. (§ 1 ch 98 SLA 1966)

Chapter 05. Public Schools Generally.

[Repealed, § 59 ch 98 SLA 1966.]

Chapter 07. Administration of Public Schools.

Article

1. Department of Education (§ 14.07.020)
2. State Board of Education (§§ 14.07.075 — 14.07.170)

Article 1. Department of Education.

Section

- 10. Department of Education
- 20. Duties of the department
- 30. Powers of the department
- 35. Accounting and disposition of receipts
- 50. Selection of textbooks

Collateral references. — 68 Am. Jur. 2d Schools, §§ 5-7, 37-55.
78 C.J.S. Schools and School Districts, §§ 83-91.

Section

- 57. Transmittal of textbook selections
- 58. Alaska School Activities Association
- 59. Alaska school activities fund
- 60. Regulations
- 70. Withholding state funds

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Sec. 14.07.010. Department of Education. The Department of Education includes the commissioner of education, the state Board of Education, and the staff necessary to carry out the functions of the department. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in *Regich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Cited in *Tunley v. Municipality of An-*

chorage School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 617 P.2d 490 (1980).

Sec. 14.07.020. Duties of the department. (a) The department shall

- (1) exercise general supervision over the public schools of the state except the University of Alaska;
- (2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;
- (3) provide advisory and consultative services to all public school governing bodies and personnel;
- (4) prescribe by regulation a minimum course of study for the public schools; the regulations must provide that if a course in American Sign Language is given, the course shall be given credit as a course in a foreign language;
- (5) establish, in coordination with the Department of Health and Social Services, a program for the continuing education of children who are held in detention facilities in the state during the period of detention;
- (6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards in addition to the requirements of AS 18.15.145 that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) exercise general supervision over pre-elementary schools that receive direct state or federal funding;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private schools which request accreditation and which meet accreditation standards prescribed by regulation by the department; nothing in this paragraph authorizes the department to require religious or other private schools to be licensed;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

(12) provide educational opportunities in the areas of vocational education and training, and basic education to individuals over 16 years of age who are no longer attending school;

(13) administer the grants awarded under AS 14.11.020;

(14) establish, in coordination with the Department of Public Safety, a school bus driver training course.

(b) In this section "pre-elementary school" means a school for children ages three through five years if the school's primary function is educational. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1 — 3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; am §§ 1, 2 ch 92 SLA 1982; am § 2 ch 11 SLA 1984; am § 1 ch 32 SLA 1984; am § 1 ch 19 SLA 1986; am E.O. No. 62, § 2 (1986); am § 1 ch 70 SLA 1988)

Effect of amendments. — The 1988 end of subsection (a)(4) beginning with amendment added the language at the "the regulations."

NOTES TO DECISIONS

Stated in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Collateral references. — Power to require construction or repair of school buildings. 1 ALR 1559.

Power of school authorities to employ physicians, nurses, oculists, and dentists. 12 ALR 922.

Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Kindergartens or specialized depart-

ments, power and duty of school authorities to maintain. 70 ALR 1313.

Power of school or local authorities as to granting leases of school property. 111 ALR 1051.

Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute. 33 ALR3d 397.

Sec. 14.07.030. Powers of the department. The department may

- (1) establish, maintain, govern, operate, discontinue, and combine area, regional, and special schools;

- (2) enter into contractual agreements with the Bureau of Indian Affairs or with a school district to share boarding costs of secondary school students;

- (3) provide for citizenship night schools when and where expedient;

- (4) provide for the sale or other disposition of abandoned or obsolete buildings and other state-owned school property;

- (5) prescribe a classification for items of expense of school districts;

- (6) acquire and transfer personal property, acquire real property, and transfer real property to federal agencies, state agencies, or to political subdivisions;

- (7) enter into contractual agreements with school districts to provide more efficient or economical education services; reasonable fees may be charged by the department to cover the costs of providing services under an agreement, including costs for professional services, reproduction or printing, and mailing and distribution of educational materials;

- (8) provide for the issuance of elementary and secondary diplomas to persons not in school who have completed the equivalent of an 8th or 12th grade education, respectively, in accordance with standards established by the department;

- (9) exercise disapproval power under AS 14.08.101;

- (10) apply for, accept, and spend endowments, grants, and other private money available to the state for educational purposes in accordance with AS 37.07 (the Executive Budget Act);

- (11) set student tuition and fees for educational programs provided and schools operated by the department under the provisions of AS 14.07.020(12) and (1) of this section;

- (12) charge fees to cover the costs of care and handling with respect to the acquisition, warehousing, distribution, or transfer of donated

§ 14.07.035 COMPILED SCHOOL LAWS OF ALASKA § 14.07.035

foods. (§ 1 ch 98 SLA 1966; am § 1 ch 66 SLA 1968; am §§ 2, 3, 34 ch 46 SLA 1970; am § 1 ch 161 SLA 1975; am § 15 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment redesignated former paragraphs (5)-(12) as present paragraphs (2)-(9) and added paragraphs (10)-(12), added "reasonable fees may be charged by the department to cover the costs of providing services under an agreement, including costs for professional services, reproduction or printing, and mailing and distribution of educational materials" at the end of paragraph (7) and made minor grammatical changes.

NOTES TO DECISIONS

Cited in Alaska State-Operated School Sys. v. Mueller, Sup. Ct. Op. No. 1157 (File No. 2138), 536 P.2d 99 (1975).

Sec. 14.07.035. Accounting and disposition of receipts. (a) The commissioner of administration shall separately account for educational service fees collected under AS 14.07.030(7) that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of AS 14.07.030.

(b) The commissioner of administration shall separately account for each endowment, grant, or other money from a private donor received under AS 14.07.030(10) that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the educational purposes intended by the endowment, grant, or gift.

(c) The commissioner of administration shall separately account for student tuition and fees collected under AS 14.07.030(11) that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to administer, maintain, and operate programs and schools under AS 14.07.020(12) and 14.07.030(1).

(d) The commissioner of administration shall separately account for fees collected under AS 14.07.030(12) that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the programs for which the fees are collected.

(e) The commissioner of administration shall separately account for money that derives from department auxiliary services, including student services centers, student activities, and events administered or operated by the department and that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of AS 14.07.030. (§ 16 ch 138 SLA 1986)

Sec. 14.07.040. Supplies and equipment for state-operated schools. [Repealed, § 34 ch 46 SLA 1970.]

Sec. 14.07.050. Selection of textbooks. Textbooks for use in the public schools of the state shall be selected by district boards for district schools. (§ 1 ch 98 SLA 1966; am § 1 ch 96 SLA 1970; am § 2 ch 205 SLA 1970; am § 25 ch 59 SLA 1982)

Sec. 14.07.052. State Textbook Commission. [Repealed, § 2 ch 96 SLA 1970.]

Secs. 14.07.053 — 14.07.054. [Renumbered as AS 14.07.058 — 14.07.059.]

Sec. 14.07.055. Expenses and per diem. [Repealed, § 19 ch 53 SLA 1973.]

Sec. 14.07.057. Transmittal of textbook selections: A school board which selects its own books shall forward a list of the selections to the department. (§ 1 ch 98 SLA 1966)

Sec. 14.07.058. Alaska School Activities Association. (a) There is created within the Department of Education the Alaska School Activities Association.

(b) The purposes of the association are to provide for the efficient governing of interscholastic activities through the promotion of those activities and other interschool contests or programs sanctioned by the association and to assist in the promotion of those other activities and interests as it may from time to time elect.

(c) A public or private school or school district in the state may become a member of the association if it applies for membership. The Department of Education shall make applications available to all public or private schools or school districts in the state.

(d) The governing body of the association shall be the board of control with at least one member from each judicial district on the board of control. A member of the board shall be elected from each regional activities association by the members of that region. The term of office for each member is two years, except that one-half of the members elected to the first elected board shall be elected for one-year terms under regulations prescribed by the commissioner of education.

(e) The board of control in consultation with the department shall appoint an executive secretary and prescribe the duties and fix the salary of that executive secretary. The executive secretary shall serve at the pleasure of the board of control.

(f) [Repealed, § 21 ch 14 SLA 1987.]

§ 14.07.059 COMPILED SCHOOL LAWS OF ALASKA § 14.07.060

(g) The Department of Education shall approve the association's constitution and bylaws to ensure that all regions of the state are treated on an equitable basis and in the best interests of the state. (§ 1 ch 128 SLA 1976; am § 45 ch 6 SLA 1984; am § 21 ch 14 SLA 1987)

Revisor's notes. - Formerly AS 14.07.053. Renumbered in 1982.

Effect of amendments. - The 1984 amendment added "of control" at the end of the second sentence in subsection (e).

The 1987 amendment repealed subsection (f), concerning the initial board of control.

Sec. 14.07.059. Alaska school activities fund. (a) The Alaska school activities fund is established in the general fund under the administration of the Department of Education.

(b) The commissioner shall review the budget request of the Alaska School Activities Association and request a sum the commissioner approves that is equitable to all regions of the state.

(c) School districts and member schools of the Alaska School Activities Association may appropriate money to the fund.

(d) The department shall deposit in the Alaska school activities fund all fees, including membership fees and activity and events fees collected by the Alaska School Activities Association. The commissioner of administration shall separately account for the deposits into the fund. The annual estimated balance in the fund may be used by the legislature to make appropriations to the department to carry out the purposes of this section. (§ 1 ch 128 SLA 1976; am §§ 17, 18 ch 138 SLA 1986)

Revisor's notes. - Formerly AS 14.07.054. Renumbered in 1982.

Effect of amendments. The 1986 amendment substituted "in the general

fund under the administration of the Department of Education" for "within the Department of Education" at the end of subsection (a) and added subsection (d).

Sec. 14.07.060. Regulations. The board shall adopt regulations which are necessary to carry out the provisions of this title. All regulations shall be adopted under the Administrative Procedure Act (AS 44.62). (§ 1 ch 98 SLA 1966; am § 8 ch 96 SLA 1967)

NOTES TO DECISIONS

Quoted in *State v. Northern Bus Co.*, Sup. Ct. Op. No. 2899 (File No. 7079), 693 P.2d 319 (1984).

Stated in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No.

2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Cited in *State v. Hering Strait Regional Educ. Attendance Area School Dist.*, Sup. Ct. Op. No. 2625 (File No. 6381), 658 P.2d 784 (1983).

§ 14.07.070 COMPILED SCHOOL LAWS OF ALASKA § 14.07.085

Sec. 14.07.070. Withholding state funds. State funds may not be paid to a school district or teacher who fails to comply with the school laws of the state or with the regulations adopted by the department. (§ 1 ch 98 SLA 1966)

Article 2. State Board of Education.

Section

- 75. Creation
- 85. Appointment of members
- 95. Term of office
- 105. Quorum and chair
- 115. Removal
- 125. Meetings

Section

- 135. Legal assistance
- 145. Commissioner of education
- 150. Budget and fiscal authority
- 155. Partisan candidacy prohibited
- 160. Bylaws
- 170. Additional powers of board

Collateral references. — 68 Am. Jur. 2d Schools, §§ 5-7, 37-55.
78 C.J.S. Schools and School Districts, §§ 83-91.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Sec. 14.07.075. Creation. There is created at the head of the Department of Education a Board of Education consisting of seven members. (§ 1 ch 96 SLA 1967)

NOTES TO DECISIONS

Stated in *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975); *Tunley v. Municipality of Anchorage*

School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.07.080. Creation and term of office. [Repealed, § 14 ch 96 1967.]

Sec. 14.07.085. Appointment of members. (a) The seven members of the board, no more than four of whom shall be members of the same political party as the governor, shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. In appointing board members, the governor shall consider recommendations made by recognized educational associations in the state.

(b) One member shall be appointed from each of the four judicial districts and three from the state at large with at least one member representing regional educational attendance areas.

(c) The members are entitled to the expenses, travel, and per diem allowances provided by law.

§ 14.07.090 COMPILED SCHOOL LAWS OF ALASKA § 14.07.125

(d) A member may act and receive compensation from the date of appointment until confirmation or rejection by the legislature. (§ 1 ch 96 SLA 1967)

Revisor's notes. — The reference in AS 14.07.085(b) to "state operated rural schools" was changed to "regional educational attendance areas" in 1978 to conform to ch. 124, SLA 1975.

Cross references. — For further qualifications of members of Board of Education, see AS 39.05.085.

Sec. 14.07.090. Appointment of members. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.095. Term of office. The members of the board shall be appointed for overlapping five-year terms commencing February 1 of the year of appointment. A member appointed to fill a vacancy serves for the unexpired term of the member whose vacancy is filled. A vacancy occurring during a term of office is filled in the same manner as the original appointment. (§ 1 ch 96 SLA 1967)

Sec. 14.07.100. Executive officer. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.105. Quorum and chair. (a) Four members constitute a quorum.

(b) The board shall designate one member of the board as the chairperson who serves as chair of the board at the pleasure of the board. (§ 1 ch 96 SLA 1967)

Sec. 14.07.110. Appointment of commissioner. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.115. Removal. Members of the board serve at the pleasure of the governor. (§ 1 ch 96 SLA 1967)

Sec. 14.07.120. Term of office and vacancy. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.125. Meetings. The board shall meet at least quarterly. Meetings may be called by the chair or by a majority of the members of the board. Meetings shall be held in Juneau unless a majority of the members of the board changes the place of a meeting. (§ 1 ch 96 SLA 1967)

§ 14.07.130 COMPILED SCHOOL LAWS OF ALASKA § 14.07.150

Sec. 14.07.130. Removal of commissioner. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.135. Legal assistance. The Department of Law shall provide all legal services for the board. (§ 1 ch 96 SLA 1967)

Sec. 14.07.140. Commissioner administers department. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.145. Commissioner of education. (a) The board shall appoint the commissioner of education subject to the approval of the governor. The commissioner shall be the principal executive officer of the department.

(b) The commissioner shall be appointed without regard to political affiliation and shall have at least a master's degree with five years' experience in the field of education since receiving it, with at least three of the five years in an exclusively administrative position.

(c) The commissioner may be appointed by the board for a term of office not to exceed five years. The commissioner may be removed during a term of office by four members of the board for cause as defined in this section.

(d) The commissioner shall receive the salary set out in AS 39.20.080.

(e) The commissioner shall employ and remove all classified personnel in the department subject to the State Personnel Act (AS 39.25). The commissioner may employ and remove personnel in the exempt or partially exempt service subject to the approval of the board. Personnel in the exempt or partially exempt service have a right of appeal to the board if they are removed.

(f) In this section, "cause" means

(1) incompetency which is the inability or the unintentional or intentional failure to perform the duties of the commissioner;

(2) immorality which is the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude; or

(3) malfeasance or misfeasance in office which includes, but is not limited to, the failure of the commissioner to comply with the rules or regulations adopted by the board. (§ 1 ch 96 SLA 1967)

Reviser's notes. — In 1987, subsections (d)-(f) were renumbered as (f), (d) and (e), respectively, to conform to the organization of the Alaska Statutes.

Sec. 14.07.150. Budget and fiscal authority. The commissioner has responsibility and authority for the preparation and execution of a budget and for the other fiscal affairs of the department, subject to the approval of the board. (§ 1 ch 98 SLA 1966; am § 2 ch 96 SLA 1967)

Sec. 14.07.155. Partisan candidacy prohibited. A member of the board may not be a candidate for partisan political office while serving as a member of the board. (§ 3 ch 96 SLA 1967)

Sec. 14.07.160. Bylaws. (a) The board may adopt bylaws for the management of the department.

(b) The bylaws shall be written and distributed in a manner so as to be readily available to personnel of the department.

(c) This section may not be construed to allow the use of a bylaw rather than a regulation where the subject is of statewide importance or interest. (§ 1 ch 98 SLA 1966; am § 4 ch 96 SLA 1967; am § 7 ch 46 SLA 1970; am § 3 ch 205 SLA 1970)

Sec. 14.07.170. Additional powers of board. The board may

(1) appoint unpaid advisory commissions;

(2) require school boards or school personnel to submit to the department, in the form the board may require, the district budget or any information or reports that are reasonably necessary to assist the department in carrying out its functions. (§ 1 ch 98 SLA 1966; am § 5 ch 96 SLA 1967)

Secs. 14.07.180 — 14.07.190. [Renumbered as AS 14.11.010 — 14.11.020.]

Chapter 08. Education in the Unorganized Borough.

Section

- 11. Purpose
- 21. Authority
- 31. Regional educational attendance areas
- 41. Regional school boards
- 51. School board sections
- 61. Term of office
- 71. Elections
- 81. Recall

Section

- 91. Administration
- 101. Powers
- 111. Duties
- 115. Advisory school boards in regional educational attendance areas
- 131. Disqualification from voting for conflict of interest
- 151. Land and buildings

NOTES TO DECISIONS

The Public Employment Relations Act, AS 23.40.070 — 23.40.260, does not apply to the noncertificated employees of the regional educational attendance areas. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct.

Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Since it excludes such employees of school districts from coverage, The Public Employment Relations Act, AS 23.40.070 — 23.40.260 excludes noncertificated employees of school districts from

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its coverage. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

And regional educational attendance areas appear to be school districts within the meaning of AS 23.40.250(6), defining "public employees" for the purposes of the Public Employment Relations Act. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Although this title does not specifically provide that regional educational attendance areas are to be considered "school districts," implicit in the statute is the notion that they are in fact school districts. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Thus, no statute imposes duty to bargain on such areas. — Because the Public Employment Relations Act, AS 23.40.070 — 23.40.260, does not apply to noncertificated employees of school districts, there is no statute which imposes a duty to bargain on the regional educational attendance areas and the regional educational attendance areas therefore have no statutory duty to bargain with a bargaining representative of the noncertificated employees. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Collective bargaining agreement with predecessor did not bind areas. — Collective bargaining agreement entered into between the state and a public service council, which agreement included within the bargaining unit the noncertificated employees of the regional educational attendance areas' predecessor, the Alaska State-Operated School System, which was disbanded pursuant to the same act creating the regional educational attendance areas, did not bind the regional educational attendance areas, which did not assume the agreement, ei-

ther as successor employers or by § 40 ch. 124, SLA 1975, which provides in part, "All contracts or other obligations created by a law amended by this Act or by virtue of functions which may be transferred by this Act, and in effect on the effective date of this Act, remain in effect unless revised or modified under the provisions of this Act." Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Implicit in the termination of the noncertificated employees in § 41 (b), ch. 124, SLA 1975, is the intention not to bind the Alaska State-Operated School System's successor to existing employment contracts. This interpretation conforms with § 41 (a) of ch. 124, which specifically carries teachers over to the new employer with their accumulated employee contract benefits. No such provision was made for noncertificated personnel. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

In light of the broad grant of self-determination given the regional educational attendance areas and their power to "appoint, compensate and otherwise control all school employees" under AS 14.08.101(4), it would be contrary to the apparent legislative intent to bind the regional educational attendance areas to a prior collective bargaining agreement in the absence of specific language to that effect. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

The regional educational attendance areas are not simply successors to the Alaska State-Operated School System; they are independent entities which have been given broad powers to run their individual school districts as they see fit. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Collateral references. — 68 Am. Jur. 2d Schools, §§ 14-55.

78 C.J.S. Schools and School Districts, §§ 53-58, 92-139.

§ 14.08.010 COMPILED SCHOOL LAWS OF ALASKA § 14.08.031

Sec. 14.08.010. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.011. Purpose. (a) It is the purpose of this chapter to provide for public education in the unorganized borough and the military reservations in the state.

(b) Nothing in this chapter prohibits an organized borough, city, village, community or settlement in an unorganized area of the state from becoming part of or being formed into an organized political subdivision authorized under AS 29. (§ 2 ch 124 SLA 1975)

NOTES TO DECISIONS

History of public education in Alaska. — See *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 798 (1975) decided under former Chapter 08.

Sec. 14.08.020. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.021. Authority. The legislature delegates to school boards for each regional educational attendance area the authority to operate the public schools in those areas in accordance with the provisions of this chapter, subject to the provisions of this title and the regulations adopted under it that apply to all school districts in the state. (§ 2 ch 124 SLA 1975)

NOTES TO DECISIONS

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).
Applied in *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.08.030. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.031. Regional educational attendance areas. (a) The Department of Community and Regional Affairs in consultation with the Department of Education and local communities shall divide the unorganized borough into educational service areas using the boundaries or sub-boundaries of the regional corporations established under the Alaska Native Claims Settlement Act, unless by referendum a community votes to merge with another community contiguous to it but within the boundaries or sub-boundaries of another regional corporation.

(b) An educational service area established in the unorganized borough under (a) of this section constitutes a regional educational atten-

dance area. As far as practicable, each regional educational attendance area shall contain an integrated socio-economic, linguistically and culturally homogeneous area. In the formation of the regional educational attendance areas, consideration shall be given to the transportation and communication network to facilitate the administration of education and communication between communities that comprise the area. Whenever possible, municipalities, other governmental or regional corporate entities, drainage basins and other identifiable geographic features shall be used in describing the boundaries of the regional school attendance areas.

(c) Military reservation schools shall be included in a regional educational attendance area. However, operation of military reservation schools by a city or borough school district may be required by the department under AS 14.12.020(a) and AS 14.14.110. Where the operation of the military reservation schools in a regional educational attendance area by a city or borough school district is required by the department, the military reservation is not considered part of the regional educational attendance area for the purposes of regional school board membership or elections.

(d) U.S. Bureau of Indian Affairs schools shall be included in a regional educational attendance area boundary. (§ 2 ch 124 SLA 1975)

NOTES TO DECISIONS

Alaska Const., art. VII, § 1, does not establish right to secondary schools for students in their communities of residence. — See *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975) decided under former Chapter 06.

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. Northwest Arctic Regional

Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Cited in *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984).

Sec. 14.08.040. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.041. Regional school boards. (a) A regional educational attendance area shall be operated on an areawide basis under the management and control of a regional school board.

(b) The qualified voters of the communities receiving educational services in each regional educational attendance area shall elect a regional school board of not less than five nor more than eleven members to be elected for the same term, in the same manner and with the same qualifications as a city or borough school district board under AS 14.12. The initial number of regional school board members shall be

determined by the department in consultation with the local communities in the regional educational attendance areas. However, the qualified voters in a regional educational attendance area may increase or decrease the number of regional school board members established under this section by placing the question on the ballot at a regular school board election in the manner prescribed by law. A change in the number of school board members is not effective until the next regular school board election.

(c) A regional school board shall consist of five, seven, nine or 11 members.

(d) Subject to (f) of this section, a regional school board member shall be elected at large by the qualified voters of the communities receiving educational services in the entire regional educational attendance area. However, each seat on the regional school board shall be designated by letter or number and when the declaration of candidacy or other nomination papers of a candidate for the regional school board are filed those papers must indicate the seat that the candidate seeks.

(e) A vacancy on a regional school board shall be filled in accordance with AS 14.12.070.

(f) The voters residing within a regional educational attendance area may petition in accordance with AS 14.08.051(b) to have each regional school board member elected from a section of the area by the voters of that section. (§ 2 ch 124 SLA 1975; am §§ 1, 2 ch 43 SLA 1982)

NOTES TO DECISIONS

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Constituency voting for recall. — Where all regional school board members cited in a recall petition had been elected

to a term of office through an at-large election, they were subject to recall by the constituency which initially elected them to office. Meiners v. Bering Strait School Dist., Sup. Ct. Op. No. 2867 (File Nos. S-126, S-140), 687 P.2d 287 (1984).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.08.050. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.051. School board sections. (a) The commissioner in consultation with the Department of Community and Regional Affairs and the local communities may divide a regional educational attendance area into sections only for the purpose of nominating and electing regional school board members. If the voters in a regional educational attendance area favor election of regional school board mem-

bers by sections under (b) of this section, the commissioner in consultation with the Department of Community and Regional Affairs and the local communities shall divide the regional educational attendance area into sections for the purpose of nominating and electing regional school board members. If a regional educational attendance area is divided into sections each school board member shall represent, as nearly as practicable, an equal number of persons. The basis for the division of a regional educational attendance area into sections shall be the total population of the area as reported in the most recent decennial federal census. If the census is five years old or older, then other reliable population data, including but not limited to population estimates based on public school enrollments, public utility connections, registered voters or certified employment payrolls, shall be used as the basis for the division of the area into sections. Each section within a regional educational attendance area shall consist of compact, contiguous territory and, as far as practicable, each section shall contain an integrated socio-economic, linguistically and culturally homogeneous area. In the division of the regional school and attendance area into sections, consideration shall be given to the transportation and communication network to facilitate the administration of education and communication between communities that comprise the area. Whenever possible, municipalities, other governmental or regional corporate entities, drainage basins and other identifiable geographic features shall be used in describing the boundaries of the sections.

(b) The division of a regional educational attendance area into sections or subsequent recasting of the section boundaries may be proposed by the regional school board or by a petition. The election of each regional school board member from a section by the voters of that section of a regional educational attendance area may be proposed by petition. A petition under this section shall be filed with the director of elections and shall contain signatures of qualified voters in the area equal to 15 percent of the total vote cast in the most recent regional school board election. The division of the area into sections, election of each regional school board member from a section by the voters of that section, or subsequent recasting of section boundaries is subject to approval by a majority of the qualified voters voting on the question in the regional educational attendance area at the next regular school board election or a special election called for that purpose, and takes effect at the next regular school board election.

(c) If a regional educational attendance area has been divided into sections, the commissioner shall recast the boundaries of the sections within 90 days following the official reporting of the decennial federal census in accordance with (a) of this section.

(d) Multi-member sections may be created. However,

(1) each seat on the regional board shall be designated by letter or number and when the declaration of candidacy or other nomination

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papers of a candidate for the regional school board are filed those papers must indicate the seat that the candidate seeks; and

(2) except as provided in (f) of this section, a section may not be represented by more than

(A) three members, if a board consists of five members;

(B) four members, if a board consists of seven members;

(C) five members, if a board consists of nine members; or

(D) six members, if a board consists of 11 members.

(e) If a regional educational attendance area has been divided into sections, board members shall be residents of the section from which they are elected. Board members shall be elected by the qualified voters of the entire regional educational attendance area, unless the voters have approved election of members by the voters of the section under (b) of this section.

(f) Upon the request of a regional school board, the commissioner may permit a section that contains more than one community to be represented by more board members than the number set out in (d)(2) of this section if the commissioner determines that

(1) the regional educational attendance area has had a pattern of substantial population fluctuations between geographic areas within the regional educational attendance area; and

(2) compliance with the requirements of (d)(2) of this section could result in continuous underrepresentation and overrepresentation of sections.

(g) In a regional educational attendance area section subject to (f) of this section, no more than two members may be elected from the same community unless the population distribution requires otherwise. (§ 2 ch 124 SLA 1975; am §§ 3 — 5 ch 43 SLA 1982; am §§ 1, 2 ch 73 SLA 1985)

Effect of amendments. — The 1985 amendment in paragraph (2) of subsection (d) added "except as provided in (f) of this section" and made other minor word changes and added subsections (f) and (g).

NOTES TO DECISIONS

Applied in *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-128, S-140), 687 P.2d 287 (1984).

Sec. 14.08.060. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.061. Term of office. (a) Members elected to a regional school board shall serve staggered three-year terms. However,

(1) the term of office of all of the members of a regional school board elected from the same multi-member section may not expire at the same time; and

(2) for the first board elected, the term of office of each member shall be determined by lot, according to the following schedule:

(A) the members of the first five-member school board shall hold office for terms as follows: one member for a one-year term; two for a two-year term and two for a three-year term;

(B) the members of the first seven-member school board hold office for terms as follows: two members for a one-year term; two for a two-year term and three for a three-year term;

(C) the members of the first nine-member school board hold office for terms as follows: three for a one-year term; three for a two-year term and three for a three-year term;

(D) the members of the first 11-member school board hold office for terms as follows: three for a one-year term, four for a two-year term and four for a three-year term.

(b) If a regional educational attendance area is divided into sections under AS 14.08.051 where the school board formerly was elected at large, or if the number of regional school board members is increased or decreased by the qualified voters in the regional educational attendance area under AS 14.08.041(b), the term of office of all members of the existing board shall terminate on the date on which the new board members take office, and the provisions of (a) of this section are applicable to the determination of the terms of office of the new members of the regional school boards.

(c) Nothing in this section precludes a board member from being reelected. (§ 2 ch 124 SLA 1975)

Sec. 14.08.070. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.071. Elections. (a) In each regional educational attendance area in the unorganized borough, the lieutenant governor, within not less than 60, nor more than 90 days after the establishment of the regional educational attendance area, shall provide for the election of a regional school board.

(b) Except for the first election of regional school members under (a) of this section, elections shall be held annually on the first Tuesday in October. Elections shall be supervised by the director of elections in the office of the lieutenant governor, but shall be administered within second class cities as part of the regular municipal election. The lieutenant governor shall adopt regulations for the conduct of the election of regional school board members comparable, as far as practicable, to those prescribed for election of school board members under AS 14.12 and AS 29.20.300 except that the majority election requirements of AS 29.26.060 do not apply to, nor may the regulations require runoff elections for, the first election of regional school board members under (a) of this section or, if a school board by resolution so requests, to

subsequent elections in the regional educational attendance area served by that school board.

(c) The cost of each regional school board election, or recall election under AS 14.08.081, shall be borne by the state. (§ 2 ch 124 SLA 1975; am § 1 ch 1 SLA 1976; am § 1 ch 39 SLA 1978; am § 25 ch 74 SLA 1985)

Effect of amendments. — The 1986 amendment in subsection (b) in the first sentence substituted "elections" for "election," and in the last sentence substituted "adopt" for "promulgate," "AS 29.20.300" for "AS 29.28," and "AS 29.28.080" for "AS 29.28.040."

Collateral references. — What is

"public place" within requirements as to posting of school election notices. 90 ALR2d 1212.

Inclusion or exclusion of first and last days in computing time for giving notice of school district election, which must be given a certain number of days before a known future date. 98 ALR2d 1392.

Sec. 14.08.080. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.081. Recall. The members of a regional school board are subject to recall in accordance with AS 29.26.240 — 29.26.360, except that the director of elections shall perform the functions of a municipal clerk, the lieutenant governor shall perform the functions of the assembly or council under those sections, and the last regular election is the last regularly scheduled election held within the regional educational attendance area. (§ 2 ch 124 SLA 1975; am § 3 ch 24 SLA 1979; am § 26 ch 74 SLA 1986; am § 20 ch 37 SLA 1986)

Effect of amendments. — The 1985 amendment substituted "AS 29.26.240 — 29.26.360" for "AS 29.28.130 — 29.28.250."

The 1986 amendment deleted "the divi-

sion of" following "the director of" and "and" preceding "the lieutenant governor" and added the language beginning "and the last regular election" at the end of the section.

NOTES TO DECISIONS

Applied in *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2867 (File Nov. S-125, S-140), 687 P.2d 287 (1984).

Sec. 14.08.090. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.091. Administration. (a) The regional school boards shall be organized in accordance with AS 14.14.070, and, before taking office, each school board member shall take and sign the oath or affirmation prescribed by AS 14.12.090.

(b) The officer of the board responsible for the custody of regional educational attendance area funds shall execute a bond of \$50,000 with the commissioner. (§ 2 ch 124 SLA 1975)

Sec. 14.08.100. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.101. Powers. A regional school board may

- (1) sue and be sued;
- (2) contract with the department, the Bureau of Indian Affairs, or any other school district, agency, or regional board for the provision of services, facilities, supplies or utilities;
- (3) determine its own fiscal procedures including but not limited to policies and procedures for the purchase of supplies and equipment; the regional school boards are exempt from AS 37.05 (Fiscal Procedures Act) and AS 36.30 (State Procurement Code);
- (4) appoint, compensate and otherwise control all school employees in accordance with this title; these employees are not subject to AS 39.25 (State Personnel Act);
- (5) adopt regulations governing organization, policies and procedures for the operation of the schools;
- (6) establish, maintain, operate, discontinue and combine schools subject to the approval of the commissioner;
- (7) recommend to the department projects for construction, rehabilitation, and improvement of schools and education-related facilities as specified in AS 14.11.010(a), and plan, design, and construct the project when the responsibility for it is assumed under AS 14.11.020;
- (8) by resolution adopted by a majority of all the members of the board and provided to the commissioner of the department, assume ownership of all land and buildings used in relation to the schools in the regional educational attendance area;
- (9) provide housing for rental to teachers, by leasing existing housing from a local agency or individual, or by entering into contractual arrangements with a local agency or individual to lease housing that will be constructed by the local agency or individual for that purpose;
- (10) exercise those other functions that may be necessary for the proper performance of its responsibilities. (§ 2 ch 124 SLA 1975; am § 2 ch 57 SLA 1976; am § 1 ch 147 SLA 1978; am § 4 ch 92 SLA 1982; am § 1 ch 105 SLA 1983; am § 6 ch 106 SLA 1986)

Revisor's notes. — In 1987, paragraphs (8)-(10) were renumbered as (10), (8), and (9), respectively, to place the general power at the end of the section.

Effect of amendments. — The 1983 amendment added paragraph (9).

The 1986 amendment, effective January 1, 1986, added "and AS 36.30 (State Procurement Code)" at the end of paragraph (3).

NOTES TO DECISIONS

Board's power to make personnel rules. — Implicit in paragraph (4) of this section is a regional school board's power to make personnel rules comparable to those which the state personnel act im-

poses on public employees subject to its coverage. *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984).

As to absence of duty on regional

§ 14.08.110 COMPILED SCHOOL LAWS OF ALASKA § 14.08.111

educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op.

No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Collateral references. — Power to require construction or repair of school buildings. 1 ALR 1559.

Power of school authorities to employ physicians, nurses, oculists, and dentists. 12 ALR 922.

Extent of legislative power with respect

to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Kindergartens or specialized departments, power and duty of school authorities to maintain. 70 ALR 1313.

Power of school or local authorities as to granting leases of school property. 111 ALR 1051.

Sec. 14.08.110. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.111. Duties. A regional school board shall:

- (1) provide, during the school term of each year, an educational program for each school age child who is a resident of the district;
- (2) develop a philosophy of education, principles and goals for its schools;
- (3) employ a chief school administrator and approve the employment of the professional administrators, teachers and noncertificated personnel necessary to operate its schools;
- (4) establish the salaries to be paid its employees;
- (5) designate the employees authorized to direct disbursements from the school funds of the board;
- (6) submit the reports prescribed for all school districts;
- (7) provide for an annual audit in accordance with AS 14.14.050;
- (8) provide custodial services and routine maintenance of school buildings and facilities;
- (9) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060;
- (10) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a regional school board to provide teacher housing, whether owned, leased or rented or otherwise provided by the regional educational attendance area, nor does it require the board to engage in a subsidy program of any kind with respect to teacher housing; and
- (11) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of

§ 14.08.115 COMPILED SCHOOL LAWS OF ALASKA § 14.08.131

a minor. (§ 2 ch 124 SLA 1975; am § 2 ch 17 SLA 1981; am § 2 ch 105 SLA 1983; am § 2 ch 1 SLA 1986)

Effect of amendments. — The 1963 amendment added paragraph (10).

The 1986 amendment added paragraph (11).

NOTES TO DECISIONS

Employment of superintendent. — Implicit in a regional school board's duty to "employ" a superintendent are duties such as the following: to determine what the duties of the position of superintendent shall be, to advise the superintendent on the manner in which it wishes him to perform his duties, to evaluate his performance, and to determine from time to time whether he should be retained or whether they should "employ" someone else. *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984).

Supervision of superintendent. — Implicit in AS 14.08.101(4) is a regional school board's power to make personnel rules comparable to those which the state personnel act imposes on public employees subject to its coverage. The board may well delegate to a superintendent, and through him to other employees such as principals and supervisors, its responsibility to "control" the rank-and-file employees; and in doing so it must of necessity supervise its superintendent. *Meiners*

v. Bering Strait School Dist., Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984).

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Allegations in recall petition. — Legal principles of general application, and not just those in this section, are the measure of the "prescribed duties" which a recall petition must allege a failure to perform. *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984).

Applied in *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.08.115. Advisory school boards in regional educational attendance areas. A regional school board may establish advisory school boards, and by regulation shall prescribe their manner of selection and organization, and their powers and duties. (§ 2 ch 24 SLA 1979)

Sec. 14.08.120. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.121. Funding. [Repealed, § 21 ch 26 SLA 1980.]

Sec. 14.08.130. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.131. Disqualification from voting for conflict of interest. A board member having a direct or indirect pecuniary interest in a contract for erection of buildings, heating, ventilation, furnishing or repairing the buildings or in a contract for the furnishing of supplies for a regional school is disqualified from voting on any question involving the pecuniary interest of the member unless the member

§ 14.08.140 COMPILED SCHOOL LAWS OF ALASKA § 14.08.161

has disclosed that interest to the board and the remaining members have approved the member's participation in the voting. (§ 2 ch 124 SLA 1975)

Sec. 14.08.140. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.141. Regional resource centers. [Repealed, § 1 ch 236 SLA 1976. For current law, see AS 14.12.150 — 14.12.180.]

Sec. 14.08.150. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.151. Land and buildings. (a) Except as provided in (b) of this section, the ownership of land and buildings used in relation to regional educational attendance area schools shall remain vested in the state, and use permits shall be given to the regional school boards.

(b) A regional school board may, by resolution, request, and the commissioner of the department having responsibility shall convey, title to land and buildings used in relation to regional educational attendance area schools. If the state holds less than fee title to the land, the commissioner of the department having responsibility shall convey the entire interest of the state in the land to the regional school board. (§ 2 ch 124 SLA 1975; am §§ 2, 3 ch 147 SLA 1978; am § 46 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment deleted "and AS 14.08.161(g)" following "section" in subsection (a).

NOTES TO DECISIONS

State property only partially used by regional school district. — Subsection (b) of this section is inapplicable to state property which is only partially used by a regional school district, and superior court erred in requiring partial convey-

ance of building complex to regional school district. *State v. Bering Strait Regional Educ. Attendance Area School Dist.*, Sup. Ct. Op. No. 2625 (File No. 6381), 555 P.2d 784 (1983).

Sec. 14.08.160. [Repealed, § 1 ch 124 SLA 1975.]

Sec. 14.08.161. School construction, repair, and improvement. [Repealed, § 10 ch 92 SLA 1982. For current law, see AS 14.11.]

Sec. 14.08.170. [Repealed, § 1 ch 124 SLA 1975.]

Chapter 09. Transportation of Pupils.

Section

10. Transportation of pupils

Section

20. Transportation for nonpublic school students

Collateral references. — 68 Am. Jur. 2d Schools, §§ 234-241.

79 C.J.S. Schools and School Districts, §§ 475-482.

One transporting children to or from school as independent contractor. 66 ALR 724.

Risks and causes of loss within liability policy covering transportation of school children. 154 ALR 1102.

Tort liability of public schools and institutions of higher learning for accidents associated with transportation of students. 34 ALR3d 1210.

Relief against school board's "bussing plan" to promote desegregation. 50 ALR3d 1089.

Tort liability for misclassification or wrongful placement of student in special education program. 33 ALR4th 1166.

Personal liability of executive or administrative officer unit for personal injury or death of student. 35 ALR4th 272.

Liability of school employee, other than teacher or administrator, for personal injury or death of student. 35 ALR4th 328.

Sec. 14.09.010. Transportation of pupils. (a) The department may provide for the transportation of pupils who reside a distance from established schools, and in order to accomplish that purpose may

(1) require school districts to enter into contracts with the department for the administration, supervision, operation or subcontracting of the operation of transportation systems for students to and from the schools within their service area;

(2) require all school districts, transportation contractors and other recipients of state transportation funds to submit to the department an annual report, which includes a financial statement and other operational data required by the department;

(3) permit school districts to

(A) establish supplementary systems of student transportation for students ineligible to utilize transportation facilities paid for by the state;

(B) charge fares or fees for the supplementary transportation systems; and

(C) use local tax funds to pay, in whole or in part, the cost of the supplementary system.

(b) Each school district mentioned in (a)(1) of this section is entitled to receive reimbursement from the state for the operation of the transportation system on a unit cost basis determined by the department.

(c) The school board of a district, or the department for areas not within school districts, shall designate as hazardous those routes

which cannot be safely traveled by children not served by school bus. The designation may recognize hazards that exist only part of the time and in these instances the designation shall be applicable only during the time the hazards are found to exist. The board or the department shall provide for the transportation of pupils on routes designated as hazardous. The additional cost of the transportation in a district shall be shared equally by the district and the department. Eligibility to receive school bus service on routes designated as hazardous shall not be subject to restrictions based on the minimum distance between established schools and the residences of pupils. (§ 1 ch 39 SLA 1966; § 1 ch 98 SLA 1966)

Revisor's notes. — Subsection (c) was enacted as AS 14.10.070(c). Renumbered in 1966.

Opinions of attorney general. — Until the Alaska Supreme Court issues a decision overruling *Matthews v. Quinton*,

Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961), or modifying it in a significant manner, the law in the state is that public funds may not be used to provide transportation to private school children. 1978 Op. Att'y Gen. No. 23.

NOTES TO DECISIONS

Prior law. — For cases construing former similar provisions, see *Tapecott v. Page*, 17 Alaska 507 (1958); *Matthews v. Quinton*, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961), cert. denied, 368 U.S. 517, 82 S. Ct. 530, 7 L. Ed. 2d 522 (1962).

Borough was not acting as an agent of the state in furnishing transportation of pupils. *Kenai Peninsula Borough v. State*, Sup. Ct. Op. No. 1124 (File No. 2092), 532 P.2d 1019 (1975).

While the state did supervise the school transportation service insofar as it related to the funding provided by it and also had certain regulations in effect pertaining to the over-all safety of the transportation system, the actual control of the transportation services was undertaken by the borough which, on its own behalf, entered into the contract with a school bus owner to furnish transportation service for specified routes. *Kenai Peninsula Borough v. State*, Sup. Ct. Op. No. 1124 (File No. 2092), 532 P.2d 1019 (1975).

Department of Education discretion in awarding school busing contracts.

— Although neither the Department of Education nor regional school boards were explicitly given the discretion to decide when a busing contract was to be awarded by bid or by negotiation under former AS 37.05.230(4), the authority granted to the Department of Education under this section compelled the conclusion that the department additionally had been granted the discretion to choose between bid and negotiation in awarding busing contracts. *State v. Northern Bus Co.*, Sup. Ct. Op. No. 2899 (File No. 7079), 693 P.2d 319 (1984).

Applied in *Girves v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 1168 (File No. 2016), 536 P.2d 1221 (1975).

Cited in *Jennings v. State*, Sup. Ct. Op. No. 1467 (File No. 2658), 566 P.2d 1304 (1977).

Collateral references. — Transportation of school pupils at expense of public. 63 ALR 413; 118 ALR 806; 146 ALR 625. Nature and extent of transportation

that must be furnished under statute requiring free transportation of school pupils. 52 ALR3d 1036.

Sec. 14.09.020. Transportation for nonpublic school students. In those places in the state where the department or a school district provides transportation for children attending public schools, the department also shall provide transportation for children who, in compliance with the provisions of AS 14.30, attend nonpublic schools which are administered in compliance with state law where the children, in order to reach the nonpublic schools, must travel distances comparable to, and over routes the same as, the distances and routes over which the children attending public schools are transported. The commissioner shall administer this nonpublic school student transportation program, integrating it into existing systems as much as feasible, and the cost of the program shall be paid from funds appropriated for that purpose by the legislature. (§ 1 ch 157 SLA 1972)

Collateral references. — Constitutionality of statute providing school bus service for pupils of parochial or private schools. 168 ALR 1434.

Constitutionality, under state constitu-

tional provision forbidding financial aid to religious sects, of public provision of school bus service for private school pupils. 41 ALR3d 344.

Chapter 10. Administration of the School System.

[Repealed, § 59 ch 98 SLA 1966.]

Chapter 11. Construction, Rehabilitation, and Improvement of Schools and Education-Related Facilities.

Section	Section
10. Recommendations and evaluations of projects	110. Eligibility
20. Assumption of responsibilities	115. State aid
100. State aid for costs of school construction debt	120. Application for aid
102. Evaluation of projects	125. Conditions of state aid
105. Public school facilities construction advance account	130. Construction and implementation
	132. Regulations
	135. Definitions

Opinions of attorney general. — Appropriations to retire municipal general obligation school bond indebtedness under this chapter are "required" and qualify as

an exception to the spending limit of § 16, art. IX, of the state constitution. 1983 Op. Att'y Gen. No. 01.

§ 14.11.010 COMPILED SCHOOL LAWS OF ALASKA § 14.11.020

Sec. 14.11.010. Recommendations and evaluations of projects. (a) The assembly or council of a municipality that is a school district or a regional school board may submit a request to the department for a school or education-related facility construction, rehabilitation, or improvement project together with a report evaluating the condition of school or education-related facilities in the municipality or regional educational attendance area and a determination of the need for the project.

(b) With regard to projects requested under (a) of this section the department shall

(1) rank each project in the order of priority that serves the best interests of the state;

(2) prepare an estimate of the amount of money needed to finance each project approved by the department and recommend to the governor appropriations for projects to be included in the budget submitted to the legislature;

(3) provide the governor with a copy of the report of the assembly, council, or regional school board that requested each project approved by the department;

(4) provide to the legislature within the first 10 days of each regular session a summary of the projects requested by each assembly, council, or regional school board.

(c) In establishing priorities among requested projects the department shall evaluate at least the following factors:

(1) priorities assigned by the assembly, council, or school board to the projects requested;

(2) emergency requirements;

(3) the number of students without classroom space;

(4) new local elementary or secondary programs;

(5) existing regional, community, and school facilities and the condition of the facilities;

(6) the economic and social stability of the municipality or region.

(d) The provisions of this section do not affect a municipality's eligibility for reimbursement under AS 14.11.100. (§ 3 ch 92 SLA 1982)

Revisor's notes. — Enacted as AS
14.07.180. Renumbered in 1982.

Sec. 14.11.020. Assumption of responsibilities. (a) The assembly or council of a municipality that is a school district or a regional school board may, by resolution or majority vote of the body, assume the responsibilities relating to the planning, design, and construction of a school or an education-related facility located within the boundaries or operating area of the municipality or regional educational attendance area. After receipt of a request by an assembly or council under this subsection, the department shall provide for the assump-

tion of the responsibilities requested. After receipt of a request by a regional school board under this subsection, the department may provide for the assumption of the responsibilities requested.

(b) If a municipality that is a school district or a regional educational attendance area assumes the responsibilities under this section, the department shall grant to the municipality or regional educational attendance area money appropriated for the school or education-related facility. The department may transfer the appropriations to a special construction account in the state treasury. Under the fiscal control of the department, a municipality or regional educational attendance area that assumes responsibilities for the project as provided in this section may draw on the account for costs of the project.

(c) The construction management costs of a project assumed under this section may not exceed four percent of the amount of appropriations for the facility if the amount of appropriations is \$500,000 or less. The construction management costs of a project assumed under this section may not exceed three percent of the amount of appropriations for the facility if the amount of appropriations is over \$500,000 but less than \$5,000,000. The construction management costs of a project assumed under this section may not exceed two percent of the amount of appropriations for the facility if the amount of appropriations is \$5,000,000 or more. For purposes of this subsection "construction management" means management of the project's schedule, quality, and budget during any phase of the planning, design, and construction of the facility by a private contractor engaged by the municipality or regional educational attendance area.

(d) The commissioner shall adopt necessary regulations implementing this section, and setting out the requirements for agreements between the department and a municipality or regional educational attendance area relating to the assumption by the municipality or regional educational attendance area of responsibilities for the planning, design, and construction of a project. (§ 3 ch 92 SLA 1982)

Revisor's notes. — Enacted as AS
14.07.190. Renumbered in 1982.

Sec. 14.11.100. State aid for costs of school construction debt.
(a) During each fiscal year, the state shall allocate to a municipality that is a school district, the following sums:

(1) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred before July 1, 1977 to pay costs of school construction;

(2) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1977 and before July 1, 1978 to pay costs of school construction;

(B) cash payments made after June 30, 1976 and before July 1, 1978 by the municipality during the fiscal year two years earlier to pay costs of school construction;

(3) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1978 and before January 1, 1982 to pay costs of school construction projects approved under AS 14.07.020(11);

(B) cash payments made after June 30, 1978 and before July 1, 1982 by the municipality during the fiscal year two years earlier to pay costs of school construction projects approved under AS 14.07.020(11);

(4) subject to (h) and (i) of this section up to 90 percent of

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after December 31, 1981, and authorized by the qualified voters of the municipality before July 1, 1983, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1982, and before July 1, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(C) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are submitted to the Department of Education for approval under AS 14.07.020(11) before July 1, 1983, and approved by the qualified voters of the municipality before October 15, 1983, not to exceed a total project cost of (i) \$6,600,000 if the annual growth rate of average daily membership of the municipality is more than 7 percent but less than 12 percent, or (ii) \$20,000,000 if the annual growth rate of average daily membership of the municipality is 12 percent or more; payments made by a municipality under this paragraph on total project costs that exceed the amounts set out in (i) and (ii) of this paragraph are subject to (a)(5)(A) of this section.

(5) subject to (h), (i), and (j) of this section, 80 percent of

(A) payments made by the municipality during the fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness authorized by the qualified voters of the municipality after June 30, 1983, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11).

(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140.

(c) The school construction account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of providing the share to which a borough or city is entitled under this section, those funds that are available shall be distributed pro rata among the eligible local governments except that the legislature may direct that additional debt service on refunding bonds that exceeds the total debt service on the refunded bonds be disregarded in whole or in part.

(d) Money in the school construction account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(e) The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section, including but not limited to, the amount of state aid paid on a per capita and per student basis and the resultant effect on the rate of levy of taxes by the municipality for educational purposes.

(f) *[Repealed, § 17 ch 147 SLA 1978.]*

(g) *[Repealed, § 47 ch 6 SLA 1984.]*

(h) An allocation under (a)(4) or (5) of this section for school construction begun after July 1, 1982, shall be reduced by the amount of money used for the construction of residential space, hockey rinks, planetariums, saunas, and other facilities for single purpose sporting

or recreational uses that are not suitable for other activities and by the money used for construction that exceeds the amount needed for construction of a facility of efficient design as determined by the department. An allocation under (a)(4) or (5) of this section may not be reduced by the amount of money used for construction of a small swimming pool, tank, or water storage facility used for water sports. However, an allocation shall be reduced by the difference between the amount of money used to construct a swimming pool that exceeds the standards adopted by the department and the amount of money that would have been used to construct a small swimming pool, tank, or water storage facility, as determined by the commissioner.

(i) For the purposes of (a)(4) and (5) of this section

- (1) an indebtedness for bonds is incurred after the bonds are sold;
- (2) reimbursement for a cash payment may only be made after the payment is made to a vendor; and

(3) payments may not be made for costs that are incurred under a contract after the contract has been released.

(j) Except as provided in (l) of this section, the state may not allocate money to a municipality for a school construction project under (a)(5) of this section unless the municipality complies with the requirements of (1) — (4) of this subsection, the project is approved by the commissioner before the local vote on the bond issue for the project, and the local vote occurs before July 1, 1987, or after June 30, 1988. In approving a project under this subsection, the commissioner shall require

(1) the municipality to include on the ballot for the bond issue the estimated total cost of each project including estimated total interest, estimated annual operation and maintenance costs, the estimated amounts that will be paid by the state and by the municipality, and the approximate amount that would be due in annual taxes on \$100,000 in assessed value to retire the debt;

(2) that the bonds may not be refunded unless the annual debt service on the refunding issue is not greater than the annual debt service on the original issue;

(3) that the bonds must be repaid in approximately equal annual principal payments or approximate equal debt service payments over a period of at least 10 years;

(4) the municipality to demonstrate need for the project by establishing that the school district has

(A) projected long-term student enrollment that indicates the district has inadequate facilities to meet present or projected enrollment; or

(B) facilities that require repair or replacement in order to meet health and safety laws or regulations or building codes.

(k) An amount equal to the interest earned on the investment of the proceeds of bonds issued for a school construction project shall be used by the municipality to

- (1) pay the costs of the project;
- (2) pay accrued interest on the bond issue;
- (3) redeem all or part of the bonds; or
- (4) pay the costs of issuing the bonds.

(l) Bonds may be refunded without compliance with (j)(2) and (3) of this section if the refunding bonds are issued after June 30, 1987, and before January 1, 1989, and the time remaining for repayment on the original bonds is more than five years. The repayment term on refunding bonds may not exceed 20 years. For the purposes of determining the level of reimbursement, refunding bonds are considered to be issued as of the date of the first issue of bonds, notes, or other indebtedness or of the bonds that refund the bonds, whichever is later.

(m) In this section, "outstanding bonds, notes, or other indebtedness" includes bonds issued to refund bonds, notes, or other indebtedness issued to pay costs of school construction or to refund the bonds. Refunded bonds, notes, or other indebtedness are not considered outstanding. (§ 1 ch 249 SLA 1970; am § 1 ch 93 SLA 1971; am § 2 ch 137 SLA 1972; am § 1 ch 28 SLA 1973; am § 47 ch 127 SLA 1974; am §§ 1 — 3 ch 120 SLA 1977; am §§ 12, 17 ch 147 SLA 1978; am § 25 ch 168 SLA 1978; am §§ 8 — 10 ch 92 SLA 1982; am §§ 1 — 3 ch 82 SLA 1983; am § 47 ch 6 SLA 1984; am §§ 1-5 ch 78 SLA 1985; am §§ 1 — 3 ch 73 SLA 1987)

Revisor's notes. — Formerly AS 43.18.100. Renumbered in 1983.

Subsection (m) of this section was enacted as a part of (l). Reorganized and renumbered in 1987.

Cross references. — For present provisions of former subsection (g) of this section, see AS 14.11.138(3).

Effect of amendments. — The 1983 amendment in paragraph (a)(4), inserted "up to" in the introductory language, inserted "and authorized by the qualified voters of the municipality before July 1, 1983" in (A), inserted "and before July 1, 1983" in (B), added "and" to the end of (B), and added (C). The amendment also added paragraph (a)(5) and subsection (j).

The 1984 amendment repealed former subsection (g), which defined "commissioner" and "cost of school construction."

The 1985 amendment in the introductory language of paragraph (5) of subsection (a) inserted "and (j)" and made related stylistic changes and substituted "80" for "50"; in subsection (h) in the first sentence inserted "or (5)" near the begin-

ning of the sentence and at the end of the sentence added the language beginning "and by the money used," inserted "or (5)" in the second sentence, and in the last sentence substituted "exceeds the standards adopted by the department" for "is competition size or larger"; inserted "and (5)" in the introductory language of (l); in subsection (j) inserted "municipality complies with the requirements of (1) — (4) of this subsection and the," inserted "including estimated annual operation and maintenance costs" in paragraph (1), and rewrote paragraph (4); and added subsection (k).

The 1987 amendment added the language beginning "except that the legislature may direct" at the end of subsection (c), in subsection (j) in the introductory language substituted "Except as provided in (h) of this section, the" for "The" at the beginning, added "and the local vote occurs before July 1, 1987, or after June 30, 1988" at the end of the first sentence, and made a related stylistic change, and in paragraph (1) inserted "estimated total

§ 14.11.102 COMPILED SCHOOL LAWS OF ALASKA § 14.11.110

interest" and added the language beginning "and the approximate amount" at the end of the paragraph and made a related stylistic change, and added subsections (l) and (m).

Editor's notes. — Section 10(a), ch. 78,

SLA 1985 provides that the 1985 amendments to (j) of this section apply only to school construction projects approved by the commissioner of education after July 1, 1985.

Sec. 14.11.102. Evaluation of projects. The department shall evaluate projects for which retirement of school construction debt is requested by school districts in accordance with the procedures set out in AS 14.11.010. A request for an allocation of funds under AS 14.11.100 must be submitted to the department by the school district no later than October 15 of the fiscal year before the fiscal year for which the request is made. (§ 6 ch. 78 SLA 1985)

Sec. 14.11.105. Public school facilities construction advance account. The public school facilities construction advance account is established. The account consists of appropriations for distribution under AS 14.11.105 — 14.11.135 to boroughs and cities which are school districts to assist in paying the costs of public school facilities projects approved under AS 14.07.020(11) for which construction is commenced after June 30, 1978 and for which no bonding, notes, or other indebtedness was incurred before July 1, 1978. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.105. Renumbered in 1983.

Sec. 14.11.110. Eligibility. Eligibility of a proposed construction project for funding assistance under AS 14.11.105 — 14.11.135 shall be determined by the department based on standards and criteria established by regulation. The standards and criteria to be considered in determining eligibility include the following:

- (1) emergency requirements;
- (2) number of unhoused students;
- (3) new elementary or secondary programs;
- (4) existing community and school facilities and their condition;
- and
- (5) economic and social stability of the community. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.110. Renumbered in 1983.

§ 14.11.115 COMPILED SCHOOL LAWS OF ALASKA § 14.11.125

Sec. 14.11.115. State aid. (a) The amount of state aid payable in advance under AS 14.11.105 — 14.11.135 is the amount by which the cost of construction of the approved school construction project would cause the debt-to-valuation ratio of the municipality to exceed 12 per cent.

(b) A payment under (a) of this section is limited to an amount which, when combined with estimated payments to the school district for the retirement of the principal and interest on bonds, notes or other indebtedness or reimbursement of cash payments for a school construction project for which payment is made under AS 14.11.100(a)(1) or (2) or for an approved school construction project for which payment is made under AS 14.11.100(a)(3), does not exceed 80 per cent of the cost of the school construction project.

(c) In this section,

(1) "debt" means the principal amount of the direct and general obligation indebtedness of the municipality for which all taxable property is subject to taxation to pay the bond, note or other evidence of the debt, determined annually by the Department of Community and Regional Affairs in consultation with each municipality that is a school district and reported to the municipality and the commissioner of education; the determination shall be made by October 1 and report the outstanding debt as of July 1 of that year;

(2) "valuation" means the full and true value of the real and personal property of the municipality determined in accordance with AS 14.17.140(a). (§ 13 ch 147 SLA 1978; am § 21 ch 85 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 2, 1988, substituted all of the language in subsection (c)(1) following "determined" for "and reported in accordance with AS 14.17.140(c)."

Sec. 14.11.120. Application for aid. (a) The commissioner shall prescribe the necessary forms and procedures to be used in applying for construction cost assistance under AS 14.11.105 — 14.11.135.

(b) A borough or city which is a school district seeking construction cost aid shall apply to the department by October 15 of the prior fiscal year.

(c) Based on the commissioner's review of applications and determination of project eligibility, the commissioner shall recommend to the governor an appropriation of funds for state aid for those projects under AS 14.11.105 — 14.11.135. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.120. Renumbered in 1983.

Sec. 14.11.125. Conditions of state aid. (a) Funds distributed to a borough or city which is a school district during a school year under AS 14.11.105 — 14.11.135 shall be received, held, and expended by

§ 14.11.130 COMPILED SCHOOL LAWS OF ALASKA § 14.11.132

the district in accordance with the applicable provisions of law and of regulations adopted by the department. Funds provided under AS 14.11.105 — 14.11.135, but which are not required for the project for which they were granted or which are in excess of that borough's or city which is a district's entitlement for aid under AS 14.11.115 shall be returned to the department and deposited in the general fund.

(b) Each borough or city which is a school district shall maintain financial records of the receipt and disbursement of state funds received under AS 14.11.105 — 14.11.135 and money provided toward local effort. The records shall be in the form prescribed by the department and are subject to audit by it at any time.

(c) Upon completion of the construction project, the chief school administrator of the district shall report the total cost of the project and means of financing it to the commissioner.

(d) Boroughs and cities that are school districts shall secure and maintain in full force and effect adequate property loss insurance for the replacement cost of all facilities constructed after July 1, 1978 and for which state funds are available under AS 14.11.100 — 14.11.135. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.125. Renumbered in 1983.

Sec. 14.11.130. Construction and implementation. (a) AS 14.11.105 — 14.11.135 may not be construed so as to create a debt to the state.

(b) Funds to carry out the provisions of AS 14.11.105 — 14.11.135 may be appropriated annually by the legislature into the public school facilities construction advance account. If amounts in the account are insufficient to meet the allocations authorized by the commissioner under AS 14.11.105 — 14.11.135, such funds as are available shall be distributed pro rata among each borough and city which is a school district based upon its computed entitlement. (§ 13 ch 147 SLA 1978)

Revisor's notes. — Formerly AS 43.18.130. Renumbered in 1983.

Opinions of attorney general. — Appropriations to retire municipal general obligation school bond indebtedness under

this chapter are "required" and qualify as an exception to the spending limit of § 16, art. IX, of the state constitution. 1983 Op. Att'y Gen. No. 01.

Sec. 14.11.132. Regulations. The department shall adopt regulations to carry out the purposes of this chapter. (§ 8 ch 78 SLA 1985)

Revisor's notes. — Formerly AS 14.11.140. Renumbered in 1985.

Cross references. — For special provisions relating to permanent regulations

adopted under this section, see § 9, ch. 78, SLA 1985 in the Temporary and Special Acts.

Sec. 14.11.135. Definitions. In this chapter, unless the context requires otherwise,

(1) "approved school construction project" means the plan for a new school or an addition to or major rehabilitation of an existing school to the extent to which approved by the commissioner in accordance with AS 14.07.020(11);

(2) "commissioner" means the commissioner of education;

(3) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary school buildings and includes the sum total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary;

(4) "department" means the Department of Education. (§ 13 ch 147 SLA 1978; am § 48 ch 6 SLA 1984; am § 7 ch. 78 SLA 1985)

Reviser's notes. — Formerly AS 43.18.135. Renumbered in 1983.

Effect of amendments. — The 1984 amendment inserted present paragraph

(3) and redesignated former paragraph (3) as present paragraph (4).

The 1985 amendment substituted "this chapter" for "AS 14.11.100 — 14.11.135" in the introductory language.

Chapter 12. Organization and Government of School System.

Article

1. Districts (§§ 14.12.010 — 14.12.020)
2. School Boards (§§ 14.12.030 — 14.12.115)
3. Regional Resource Centers (§§ 14.12.150 — 14.12.180)

Article 1. Districts.

Section

10. Districts of state public school system

Section

20. Support, management, and control

§ 14.12.010 COMPILED SCHOOL LAWS OF ALASKA § 14.12.020

Collateral references. — 68 Am. Jur. 2d School, §§ 14-36.

78 C.J.S. Schools and School Districts, §§ 23-81.

Grounds for ousting educational corporation of its franchise. 46 ALR 1478.

Incorporated educational body as an institution belonging to the state. 65 ALR 1394.

Discretion of administrative officers as to changing boundaries of school district. 65 ALR 1823; 135 ALR 1096.

Constitutionality and construction of statute which leaves to determination of

private individuals the boundaries of territory to be erected into a school district or other political subdivision, or to be added to or detached from an existing district or subdivision. 70 ALR 1062.

Unionization, centralization, or consolidation of school districts as affecting indebtedness and property of the individual districts. 121 ALR 826.

Propriety, under First Amendment, of school board's censorship of public school libraries or course books. 64 ALR Fed. 771.

Sec. 14.12.010. Districts of state public school system. The districts of the state public school system are as follows:

(1) each first class city in the unorganized borough is a city school district;

(2) each organized borough is a borough school district;

(3) the area outside organized boroughs and outside first class cities is divided into regional educational attendance areas. (§ 1 ch 98 SLA 1966; am § 3 ch 124 SLA 1975; am § 7 ch 208 SLA 1975)

NOTES TO DECISIONS

Regional educational attendance areas are school districts. — Although this title does not specifically provide that regional educational attendance areas are to be considered "school districts," implicit in the statute is the notion that they are in fact school districts. *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File No. 3360, 3362), 591 P.2d 1292 (1979).

Quoted in *Begich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Stated in *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Cited in *Alaska State-Operated School Sys. v. Mueller*, Sup. Ct. Op. No. 1157 (File No. 2138), 536 P.2d 99 (1975).

Sec. 14.12.020. Support, management, and control. (a) Each regional educational attendance area shall be operated on an area-wide basis under the management and control of a regional school board. The regional school board manages and controls schools on military reservations within its regional educational attendance area until the military mission is terminated or so long as management and control by the regional educational attendance area is approved by the department. However, operation of the military reservation schools by a city or borough school district may be required by the department under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by the regional educational attendance area is disapproved by the department.

ment, operation, management and control of schools on the military reservation transfers to the city or borough school district in which the military reservation is located.

(b) Each borough or city school district shall be operated on a district-wide basis under the management and control of a school board.

(c) The legislature shall provide the state money necessary to maintain and operate the regional educational attendance areas. The borough assembly for a borough school district, and the city council for a city school district, shall provide the money which must be raised from local sources to maintain and operate the district. (§ 1 ch 98 SLA 1966; am §§ 8, 9 ch 46 SLA 1970; am § 5 ch 32 SLA 1973; am § 1 ch 72 SLA 1974; am § 1 ch 13 SLA 1975; am §§ 4, 5 ch 124 SLA 1975)

Editor's notes. — Section 7, ch. 32, SLA 1973, provides: "Notwithstanding provisions of this Act, all agreements between organized boroughs and the Department of Education for the operation of schools on military reservations that were

made before April 3, 1973 remain in force."

Legislative history reports. — For report on ch. 72, SLA 1974 (HCS CSSB 122 (Finance) am H), see 1974 House Journal, p. 519.

NOTES TO DECISIONS

Authority of school board to close schools. — Since pupil assignment and attendance area determinations may be made by a school board as a part of its "management and control" authority pursuant to this section, subject to statutory and constitutional restrictions, this assignment power extended to its logical conclusion — the closing of a school by not assigning any students to the particular school — provides a basis for the school board's authority to close schools. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Given the broad managerial mandate of the school board, and the limited authority of the municipal assembly in educational policy matters, it is the school board which has the authority to decide whether schools should be closed. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Section 4 AAC 05.090, which requires state approval prior to discontinuation of local, predominantly local schools established pursuant to the regulatory chapter of which this regulation is a part, does not require state department of education approval of that closure action by the Anchorage school board. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct.

Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Notice of school closure. — The importance of the educational and property interests involved in the closure of neighborhood schools in a school district requires adequate notice of the school board meeting at which the decision was made to close a specific school and five-day notice of the meeting is insufficient. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

A five-day notice of which schools in a school district are subject to closure militates against appropriate preparation and poses serious obstacles to the presentation of persuasive, properly researched, and supported opposition to any closure plan. It also lessens the likelihood of a fair hearing before the school board and of the school board reaching a reasoned administrative decision. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Given the critical importance of education to democratic society, the significant interests of the plaintiff as a taxpayer-owner of real property affected by the closure of the school nearest the plaintiff, and the important interests of both plaintiff's child, and the plaintiff as a parent, in the educational considerations involved,

§ 14.12.030 COMPILED SCHOOL LAWS OF ALASKA § 14.12.030

the plaintiff has rights subject to procedural due process protection, which due process rights to notice and an opportunity to be heard are independent of the requirement under the city's charter for an ordinance setting forth notice provisions for school board meetings. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4836), 631 P.2d 67 (1980).

Burden of loss from fire destruction of military reservation school. — The state must bear the loss resulting from the fire destruction of a military reserva-

tion school operated by a local school district in the absence of provisions to the contrary. *State v. Fairbanks N. Star Borough School Dist.*, Sup. Ct. Op. No. 2257 (File No. 4477), 631 P.2d 1329 (1981).

Applied in *Alaska State-Operated School Sys. v. Mueller*, Sup. Ct. Op. No. 1157 (File No. 2138), 636 P.2d 99 (1975).

Quoted in *Begich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Stated in *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 636 P.2d 793 (1975).

Article 2. School Boards.

Section

- 30. School boards
- 35. Advisory school boards in borough school districts
- 40. Transition from five to seven member board
- 50. School board terms
- 70. Vacancies

Section

- 80. Qualification of members
- 90. Oath
- 100. Application
- 110. Single body as assembly and school board
- 115. Indemnification

Collateral references. — 68 Am. Jur. 2d Schools, §§ 37-55.

78 C.J.S. Schools and School Districts, §§ 92-143.

Necessity, sufficiency, and effect of minutes or record of meeting of school board. 12 ALR 235.

Right of school teacher to serve as member of school board in same school district where employed. 70 ALR3d 1188.

Privileged nature of statement or utterances by member of school board in course of official proceedings. 85 ALR3d 1137.

Sec. 14.12.030. School boards. (a) Each borough and city school district with an average daily membership of 5,000 or less has a school board of five members, except that the governing body of the borough or city may by ordinance, concurred in by a majority of the district school board, provide for a school board of seven members.

(b) Each borough and city school district with an average daily membership exceeding 5,000 has a school board of seven, nine or eleven members, as established by ordinance.

(c) The provisions of (a) and (b) of this section do not apply if the assembly serves as the school board of the borough school district.

(d) The provisions of (a) and (b) of this section do not apply to a regional educational attendance area that converts to a city or borough school district. The number of school board members may be changed by the qualified voters in a district by placing the question on the ballot at a regular school board election in the manner prescribed by law.

(e) Each city or borough school district that is operating schools on a military reservation under AS 14.12.020(a) has one nonvoting delegate from the military reservation or reservations to the school district board to advise and assist the board in matters relating to the military reservation schools operated by the school district and to act as liaison between the board and the military community. The nonvoting delegate shall be appointed by the school district board, shall serve at the pleasure of the school district board, and must be an inhabitant of the area served by the military reservation schools operated by the school district by contract. If an elected community school committee is established on a military reservation, the only inhabitants of that military reservation who are eligible for appointment as the nonvoting delegate are those inhabitants who are members of the elected school committee. (§ 1 ch 98 SLA 1966; am § 1 ch 71 SLA 1969; am § 1 ch 83 SLA 1974; am § 2 ch 13 SLA 1975; am § 6 ch 124 SLA 1975; am § 4 ch 24 SLA 1979; am § 3 ch 73 SLA 1985; am § 27 ch 74 SLA 1985; am § 21 ch 37 SLA 1986; am § 1 ch 86 SLA 1986)

Revisor's notes. — Subsection (d) was enacted as (e). Subsection (e) was formerly (d). Renumbered in 1986.

Cross references. — For provisions relating to election of board members, see AS 29.20.300.

Effect of amendments. — The first 1985 amendment in subsection (b) in the first sentence inserted "nine or eleven", added "as established by ordinance" and added the second sentence.

The second 1985 amendment in subsection (c) substituted "The" for "Notwithstanding the" at the beginning of the sub-

section and "do not apply if the" for "where the borough" preceding "assembly serves" and deleted "under AS 29.41.020 the number of members of the assembly-school board shall be determined in the manner prescribed by AS 29.23.020" at the end of the subsection.

The first 1986 amendment deleted the former second sentence of subsection (b), which read "School board members may be elected at large, or as provided in AS 29.23.310."

The second 1986 amendment added subsection (d).

NOTES TO DECISIONS

Quoted in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.12.035. Advisory school boards in borough school districts. A borough school district board may establish advisory school boards, and by regulation shall prescribe their manner of selection, organization, powers and duties. (§ 1 ch 81 SLA 1974)

Sec. 14.12.040. Transition from five to seven member board. The transition from a five-member to a seven-member school board shall be made at the regular election following, or being held within 90 days preceding, the completion of the second regular school term during which the district maintains an average daily membership exceeding 5,000 or at the regular election following the effective date of an ordinance increasing board membership as provided in AS

§ 14.12.050 COMPILED SCHOOL LAWS OF ALASKA § 14.12.070

14.12.030(a). Once the district has a seven-member school board, the number of members may not be changed. (§ 1 ch 98 SLA 1966; am § 2 ch 71 SLA 1969)

Sec. 14.12.050. School board terms. (a) The term of office of a member of a borough or city school board is three years and until a successor takes office. However, the members of a newly created five-member school board hold office for initial terms as follows: two for a term of three years, two for a term of two years and one for a term of one year, the terms being assigned to the members by lot. The members of a newly created seven-member school board hold office for initial terms as follows: three for a term of three years, two for a term of two years and two for a term of one year, the terms being assigned to the members by lot.

(b) When a transition is made from a five-member school board to a seven-member school board, the length of the terms of office for the two new members to be elected shall be determined by lot so that when the terms of office for the two new members are assigned, the terms of office for the entire seven-member board shall be as follows: three members have a three-year term, two members have a two-year term, and two members have a one-year term. A seven-member school board, the terms of office of whose members at the time of transition from a five-member board did not result in terms expiring in the manner provided in this section, may, by resolution adopted by a majority of the members of the board, adjust the terms of office to conform to the schedule for expiration of terms of office provided in this section.

(c) Nothing in this section prevents school board members from succeeding themselves. (§ 1 ch 98 SLA 1966; am § 1 ch 41 SLA 1972)

NOTES TO DECISIONS

Stated in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.12.070. Vacancies. If a vacancy occurs on the school board, the remaining members shall within 30 days fill the vacancy. The person selected shall serve until the next regular election when a successor shall be elected to serve the balance of the term. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Stated in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

§ 14.12.080 COMPILED SCHOOL LAWS OF ALASKA § 14.12.110

Sec. 14.12.080. Qualification of members. To be eligible to be a member of a school board, a person must have the same qualifications as are necessary to be a municipal voter in the school district. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Applied in *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

Sec. 14.12.090. Oath. School board members, before taking office, shall take and sign the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska and that I will honestly, faithfully, and impartially discharge my duties as a school board member to the best of my ability." (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Stated in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 617 P.2d 490 (1980).

Sec. 14.12.100. Application. AS 14.12.010 — 14.12.100 apply to home rule and general law municipalities. (§ 1 ch 98 SLA 1966)

Revisor's notes. — In 1968 the word "apply" to correct a manifest error in the "may" was deleted before the word original publication of this section.

Sec. 14.12.110. Single body as assembly and school board. Notwithstanding the provisions of this chapter or other law, a single body may serve as both the assembly and school board in the manner provided for third class boroughs under AS 29.20.300(b), if

(1) an ordinance for that purpose is approved by the assembly and ratified by a referendum of a majority of the qualified borough voters voting on the question at a regular or special election; and

(2) the public school population within the borough is 500 pupils or less. (§ 1 ch 214 SLA 1970; am § 28 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment inserted paragraph designations, in the introductory language deleted "borough" preceding both "assembly" and "school board" and substituted "AS 29.20.300(b)" for "AS 29.41.020"; in paragraph (1) substituted "an" for "a borough" and made a minor punctuation change; and deleted "if" at the beginning of paragraph (2).

Sec. 14.12.115. Indemnification. A school board shall insure or indemnify and protect the board, any member of the board, or any agent, employee, teacher, student teacher, officer or member of the supervisory or administrative staff of the school district against financial loss and expense, including reasonable legal fees and costs arising out of any claim, demand, suit or judgment by reason of alleged negligence, alleged violation of civil rights or alleged wrongful act resulting in death or bodily injury to any person or accidental damage to or destruction of property, inside or outside the school premises, if the board member, agent, employee, teacher, student teacher, officer or member of the supervisory or administrative staff, at the time of the occurrence, was acting under the direction of the school board within the course or scope of the duties of the board member, agent, employee, teacher, student teacher, officer or member of the supervisory or administrative staff. (§ 2 ch 148 SLA 1978)

Collateral references. — Tort liability of public schools. 86 ALR3d 489.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Tort liability of public schools and institutions of higher learning for accidents

due to condition of buildings or equipment. 34 ALR3d 1166.

Tort liability of public schools and institutions of higher learning for injuries due to condition of grounds, walks, and playgrounds. 37 ALR3d 738.

Immunity of private schools and institutions of higher learning from liability in tort. 38 ALR3d 480.

Sec. 14.12.120. Limited liability. [Repealed, § 4 ch 148 SLA 1978.]

Article 3. Regional Resource Centers.

Section	Section
150. Establishment and purpose	170. Districts
160. Regional resource center board grant program; eligibility	180. Regulations

Sec. 14.12.150. Establishment and purpose. (a) The districts of the state public school system may join together to establish regional resource centers to provide services, including but not limited to the following: accounting, payroll and other fiscal; media; instructional support; bilingual-bicultural educational; in-service and staff development; student; diagnostic; school management; and school board member training.

(b) A regional resource center established under (a) of this section shall be governed by a board consisting of one representative from each participating district. The representative shall be appointed by the governing board of that district. The term of office of regional resource center board members shall be two years, beginning July 1 of each calendar year. Vacancies shall be filled in the same manner as original appointment.

(c) Regional resource center boundaries shall be established by the board on recommendation of the commissioner of education in the following seven regions of the state: southcentral and the Aleutian Chain, western, northwest, Bristol Bay, interior, southeast, and Kodiak. A district may not be included in more than one regional resource center area.

(d) Regional resource center boards may receive and expend both public and private funds to operate a regional resource center.

(e) Employees of the regional resource centers are not in the state service and are not subject to the State Personnel Act (AS 39.25). However, all regional resource center employees shall be members of either the teachers' retirement system (AS 14.25) or the public employees' retirement system (AS 39.35). (§ 2 ch 236 SLA 1976)

Legislative history reports. — For 1976 (HCSSB 690(Fin) am H), see 1976 Senate letter of intent for ch. 236, SLA Senate Journal 572.

Sec. 14.12.160. Regional resource center board grant program; eligibility. (a) The department may make grants to regional resource center boards which qualify for the grants under the criteria set out in (b) of this section and regulations adopted by the department.

(b) To qualify for a grant under (a) of this section, a regional resource center board shall

- (1) be organized under the provisions of AS 14.12.150;
 - (2) adopt bylaws for its operation;
 - (3) provide the department with a plan of operation including but not limited to the following elements:
 - (A) the bylaws adopted for its operation;
 - (B) a list of participating districts, number of students and professional staff to be served;
 - (C) a schedule of funds available from federal, state, local and private sources;
 - (D) a description of the services and programs to be offered;
 - (E) a description of the method by which these services and programs will be evaluated;
 - (F) other information that may be required by the department by regulation;
 - (4) comply with applicable regulations adopted by the department.
- (§ 2 ch 236 SLA 1976)

Sec. 14.12.170. Districts. For purposes of AS 14.12.150 — 14.12.180, regional educational attendance areas shall be considered districts. (§ 2 ch 236 SLA 1976; am § 11 ch 94 SLA 1980)

Sec. 14.12.180. Regulations. The department may adopt regulations necessary to implement the provisions of AS 14.12.150 — 14.12.170. (§ 2 ch 236 SLA 1976)

Chapter 14. Local Administration of Schools.

Article

1. Operation of Districts (§§ 14.14.020 — 14.14.160)
2. Involvement of Young People in School Governance (§§ 14.14.250 — 14.14.310)

Article 1. Operation of Districts.

Section

20. Bond required
50. Annual audit
60. Relationship between borough school district and borough
65. Relationship between city school district and city
70. Organization of school board
80. Declaring a school board vacancy
90. Additional duties
100. Bylaws and administrative rules
105. Sick leave bank

Section

107. Sick leave and sick leave transfer
110. Cooperation with other districts
120. Inoperative district
130. Chief school administrator
140. Restriction on employment
150. Association of Alaska School Boards the representative agency of board members
160. Cooperation and support of certain association functions

Collateral references. — 68 Am. Jur. 2d Schools, §§ 14-21.

78 C.J.S. Schools and School Districts, §§ 120-139.

Power to require construction or repair of school buildings. 1 ALR 1559.

Power of school authorities to employ physicians, nurses, oculists, and dentists. 12 ALR 922.

Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Power of school authorities to provide gymnasium or athletic field and equipment for same. 69 ALR 871.

Kindergartens or specialized departments, power and duty of school authorities to maintain. 70 ALR 1313.

Statute of Limitations as applicable to actions by or against school districts. 98 ALR 1221.

Power of school or local authorities as to granting leases of school property. 111 ALR 1051.

Admission charges or other receipts from extracurricular activities of schools as subject to taxation. 115 ALR 1411.

Unionization, centralization, or consolidation of school districts as affecting indebtedness and property of the individual districts. 121 ALR 826.

Particular purposes within contemplation of statute authorizing issuance of bonds or use of funds by school district for specified purposes. 124 ALR 883.

Subsequent exhaustion of funds as affecting contract validly entered into by political subdivision under constitutional provision limiting indebtedness to revenues for current year. 159 ALR 1261.

Waiver of, or estoppel to assert, failure to give required notice of claim of injury to school district or authorities. 65 ALR2d 1278.

Right of school district, or school authorities, to rescind or modify a vote or resolution for a bond issue or tax. 68 ALR2d 1041.

Power of school district to employ counsel. 75 ALR2d 1339.

Constitutionality, construction, and application of statutes declaring that school buildings are civic centers, or otherwise providing for use of such buildings for other than school purposes. 79 ALR2d 1148; 94 ALR2d 1274.

Use of school property for other than school or religious purposes. 94 ALR2d 1274.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

§ 14.14.020 COMPILED SCHOOL LAWS OF ALASKA § 14.14.050

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.14.020. Bond required. Before the officer responsible for custody, investment, or management of school district money enters upon the duties of office, the district, or the municipality if the treasury is centralized, shall obtain a bond with sufficient sureties in an amount equal to the money that may come into the officer's official custody, but not to exceed \$50,000. The bond shall be conditioned on the officer's honest and faithful disbursement and accounting of all money that may come into the official custody of the officer. The bond shall be filed with the clerk of the school board. This section does not apply to an officer who has been bonded under AS 29.20.610. (§ 1 ch 98 SLA 1966; am § 21 ch 53 SLA 1973; am § 29 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment deleted "of" following "custody" near the beginning of the section and substituted "AS 29.20.610" for "AS 29.23.520" at the end of the section.

Sec. 14.14.050. Annual audit. (a) The school board in each school district shall, before October 1 of each year, provide for an audit of all school accounts for the school year ending the preceding June 30. To make the audit the school board shall contract with a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the district. One certified copy of the audit shall be filed with the commissioner and one certified copy shall be posted in a public place at the principal administrative office of the district.

(b) The audit shall conform in form to requirements established by the commissioner. The commissioner shall withhold all payments of state funds after November 15 to a school district which fails to file a certified copy of the audit with the department.

(c) The commissioner may provide for a reaudit or an audit check in a school district if in the commissioner's judgment it is necessary to substantiate the reported expenditures.

(d) The school board shall not make the audit if an audit that satisfies the requirements of this section and that is filed and posted as required by this section is made according to AS 29.35.110. (§ 1 ch 98 SLA 1966; am § 22 ch 53 SLA 1973; am § 30 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment in subsection (d) substituted "that" for "which" in two places and "AS 29.35.110" for "AS 29.48.220" and made a minor punctuation change.

Legislative history reports. — For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

Sec. 14.14.060. Relationship between borough school district and borough. (a) The borough assembly may by ordinance require that all school money be deposited in a centralized treasury with all other borough money. The borough administrator shall have the custody of, invest and manage all money in the centralized treasury. However, the borough assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibility of a centralized treasury.

(b) When the borough school board by resolution consents, the borough assembly may by ordinance provide a centralized accounting system for school and all other borough operations. The system shall be operated in accordance with accepted principles of governmental accounting. However, the assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibilities of the accounting system.

(c) The borough school board shall submit the school budget for the following school year to the borough assembly by April 1 for approval of the total amount. Within 30 days after receipt of the budget the assembly shall determine the total amount of money to be made available from local sources for school purposes and shall furnish the school board with a statement of the sum to be made available. If the assembly does not, within 30 days, furnish the school board with a statement of the sum to be made available, the amount requested in the budget is automatically approved. By May 31, the assembly shall appropriate the amount to be made available from local sources from money available for the purpose.

(d) The borough assembly shall determine the location of school buildings with due consideration to the recommendations of the borough school board.

(e) The borough school board is responsible for the design criteria of school buildings. To the maximum extent consistent with education needs, a design of a school building shall provide for multiple use of the building for community purposes. Subject to the approval of the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and subsequent designs for a school building to the assembly for approval or disapproval; if the design is disapproved, a revised design shall be prepared and presented to the assembly. A design or revised design approved by the assembly shall be submitted by the board to the department in accordance with AS 14.07.020(11).

(f) The borough school board shall provide custodial services and routine maintenance for school buildings and shall appoint, compensate, and otherwise control personnel for these purposes. The borough assembly through the borough administrator, shall provide for all major rehabilitation, all construction and major repair of school build-

ings. The recommendations of the school board shall be considered in carrying out the provisions of this section.

(g) State law relating to teacher salaries and tenure, to financial support, to supervision by the department and other general laws relating to schools, governs the exercise of the functions by the borough. The school board shall appoint, compensate, and otherwise control all school employees and administration officers in accordance with this title.

(h) School boards within the borough may determine their own policy separate from the borough for the purchase of supplies and equipment. (§ 8 ch 118 SLA 1972; am § 11 ch 147 SLA 1978)

Opinions of attorney general. — A borough mayor may veto a "local source" resolution adopted pursuant to subsection (c) of this section but may not exercise an

item veto on it or on the school budget items in the subsequent appropriation for the schools. May 2, 1977 Op. Att'y Gen.

NOTES TO DECISIONS

History of public education in Alaska. — See *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Alaska Const., art. VII, § 1, does not establish right to secondary schools for students in their communities of residence. — See *Hootch v. Alaska State-*

Operated School Sys., Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Authority of school board to close schools. — See notes under same catchline under AS 14.14.065, *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File No. 4796, 4797, 4826), 631 P.2d 67 (1980) Notes to Decisions.

Sec. 14.14.065. Relationship between city school district and city. The relationships between the school board of a city school district and the city council and executive or administrator are governed in the same manner as provided in AS 14.14.060 for the school board of a borough school district and the borough assembly and executive or administrator. (§ 1 ch 98 SLA 1966; am § 9 ch 118 SLA 1972)

NOTES TO DECISIONS

Authority of school board to close schools. — Since pupil assignment and attendance area determinations may be made by a school board as a part of its "management and control" authority pursuant to AS 14.12.020, subject to statutory and constitutional restrictions, this assignment power extended to its logical conclusion — the closing of a school by not assigning any students to the particular school — provides a basis for the school board's authority to close schools. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File No. 4796, 4797, 4826), 631 P.2d 67 (1980).

Given the broad managerial mandate of

the school board, and the limited authority of the municipal assembly in educational policy matters, it is the school board which has the authority to decide whether schools should be closed. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File No. 4796, 4797, 4826), 631 P.2d 67 (1980).

The closure of a school does not involve the exercise of a municipality's eminent domain powers, nor does it involve major additional appropriations of municipal funds. Furthermore, in contrast to the municipal government's diminished fiscal and political interests, a school board has strong educational policy interests in de-

§ 14.14.070 COMPILED SCHOOL LAWS OF ALASKA § 14.14.090

ciding which schools are to be closed, which decision effectively determines the size, the design, and therefore the nature of the educational programs of the schools which remain open. *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op.

No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Cited in *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Sec. 14.14.070. Organization of school board. Within seven days after the certification of the results of each regular school election, the school board shall meet and elect one of its members as president, one as clerk, and, if necessary, one as treasurer. (§ 1 ch 98 SLA 1966)

Sec. 14.14.080. Declaring a school board vacancy. When a member of a school board has notice of and is absent from three consecutive regular school board meetings and is not excused by the president of the school board, the other members of the school board may declare the position vacant and shall notify the ex-member by registered mail. The vacancy shall be filled as provided by AS 14.12.070. (§ 1 ch 98 SLA 1966)

Sec. 14.14.090. Additional duties. In addition to other duties, a school board shall

- (1) determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;
- (2) provide for, during the school term of each year, an educational program for each school age child who is a resident of the district;
- (3) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports which the school board may require by bylaws;
- (4) transmit, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;
- (5) keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;
- (6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;
- (7) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060;
- (8) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a school district to provide

teacher housing, whether district owned, leased, rented or through other means, nor does it require a school board to engage in a subsidy program of any kind regarding teacher housing;

(9) train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor. (§ 1 ch 98 SLA 1966; am § 3 ch 17 SLA 1981; am § 3 ch 105 SLA 1983; am § 3 ch 1 SLA 1986)

Effect of amendments. — The 1983 amendment added paragraph (8).

The 1986 amendment added paragraph (9).

Cross references. — For requirement that school districts, including REAA's, that receive state money comply with ag-

ricultural and fisheries products preference laws, see AS 36.15.050.

NOTES TO DECISIONS

Stated in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No.

2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.14.100. Bylaws and administrative rules. (a) The school board policies relating to management and control of the district shall be expressed in written bylaws formally adopted at regular school board meetings.

(b) Administrative rules which do not embody school district policy need not be adopted as bylaws; however, the rules shall be in written form and readily available to all school personnel. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Applied in *Skagway City School Bd. v. Davis*, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Sec. 14.14.105. Sick leave bank. A school board may establish a sick leave bank to enable a teacher, because of unusual circumstances, to draw not more than twice the number of days of sick leave the teacher has accumulated before the first day of school in any school year, or 24 days, whichever is greater. However, in a case of severe illness or extreme hardship the board may permit a teacher to draw more leave. The board may establish and administer the sick leave bank independently or jointly with teachers. (§ 1 ch 76 SLA 1971; am § 1 ch 142 SLA 1976; am § 1 ch 21 SLA 1986)

Effect of amendments. — The 1986 amendment in the first sentence deleted "local" preceding "school," deleted "district" following "school," and deleted "or

the board of a regional educational attendance area" following "board" and added the second sentence.

Sec. 14.14.107. Sick leave and sick leave transfer. (a) Every school district shall allow its certificated employees one and one-third days of sick leave a month with unlimited accumulation of sick leave days.

(b) A certificated school district employee who changes employment from one school district to another district, or from a school district to the department, or from the department to a school district, may transfer all of the cumulative sick leave to the new employer. It is the responsibility of the employee to notify the new employer, within 90 days of commencing work, of the number of days to be transferred.

(c) The department may implement this section by regulation. (§ 1 ch 99 SLA 1974; am § 1 ch 118 SLA 1978)

Sec. 14.14.110. Cooperation with other districts. (a) When necessary to provide more efficient or more economical educational services, a district may cooperate or the department may require a district to cooperate with other districts, state-operated schools, or the Bureau of Indian Affairs in providing educational services or in establishing boarding and tuition arrangements, arrangements for the exchange of pupils or teachers, or other similar arrangements. However, if a cooperative arrangement requires pupils to live away from their usual homes, the school board shall provide classes within the attendance area when there are at least eight children eligible to attend elementary and secondary school in the attendance area.

(b) The department may prescribe the terms and conditions of any contract entered into under (a) of this section.

(c) A contract for the operation of schools on military reservations by a city or borough school district under AS 14.12.020 (a) and in (a) of this section shall include, in addition to the terms and conditions prescribed by the department under (b) of this section, provisions for the following:

(1) the educational program provided by the school district in the schools on the military reservation shall be comparable to the program provided by the school district in its nonmilitary reservation schools; and

(2) the school district shall be fully reimbursed for the cost of operation of the schools on a military reservation. (§ 1 ch 98 SLA 1966; am § 2.64 SLA 1972; am § 2 ch 72 SLA 1974; am § 3 ch 13 SLA 1975)

NOTES TO DECISIONS

The portion of AS 14.14.110 referring to eight children is in the nature of a proviso to the remainder of the statute, which deals with cooperation among school districts. *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

This proviso must be strictly construed and not turned into a rule of general application. *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Neither subsection (a) nor AS 14.14.120(a) requires that a school

§ 14.14.120 COMPILED SCHOOL LAWS OF ALASKA § 14.14.120

come into being if a minimum of eight children are eligible to attend. *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Risk of loss from damage to military reservation school. — Nothing in the legislature's 1975 amendments requires local school districts that take over operation of military reservation schools to assume any risk of loss or duty to insure school buildings. *State v. Fairbanks N. Star Borough School Dist.*, Sup. Ct. Op.

No. 2257 (File No. 4477), 631 P.2d 1329 (1981).

The state must bear the loss resulting from the fire destruction of a military reservation school operated by a local school district in the absence of provisions to the contrary. *State v. Fairbanks N. Star Borough School Dist.*, Sup. Ct. Op. No. 2257 (File No. 4477), 631 P.2d 1329 (1981).

Cited in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.14.120. Inoperative district. (a) When there are fewer than eight children eligible to attend elementary and secondary school in a district, the school board may declare the district inoperative for that school year.

(b) During the school year in which a district is inoperative, the school board shall perform those functions necessary to preserve the financial integrity of the district, to preserve the property and assets of the district, and to otherwise insure against disruption of the continuity of the district business.

(c) An inoperative school board shall, if practicable, pay the tuition and boarding costs necessary to enable the school age children within the district to attend school in another district. If a child in an inoperative school district is not attending school in another district, the department shall provide correspondence courses and other materials and charge the school board of the inoperative district an amount equal to the actual cost to the department.

(d) The terms of office of a school board are not affected by a declaration that the district is inoperative. However, new board members may not be elected during the time a district is inoperative. In the event more than three terms expire during the time a district is inoperative the functions of the school board shall be assumed by the assembly or council until the district becomes operative. When the district becomes operative an expired school board term shall be filled by the assembly or council until the next regular school election when a school board member shall be elected to serve the balance of the term. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Subsection (a) states when an existing district may cease its operations. *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

There is no indication that a school need be started where a certain num-

ber of potential students are available. *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Neither AS 14.14.110(a) nor subsection (a) of this section requires that a school come into being if a minimum of eight

§ 14.14.130 COMPILED SCHOOL LAWS OF ALASKA § 14.14.160

children are eligible to attend. *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Cited in *Tunley v. Municipality of Anchorage School Dist.*, Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.14.130. Chief school administrator. (a) Each school board shall select and employ a qualified person as the chief school administrator for the district.

(b) The chief school administrator of the district shall administer the district in accordance with the policies which the school board prescribes by bylaw.

(c) The chief school administrator shall select, appoint, and otherwise control all school district employees that serve under the chief school administrator subject to the approval of the school board. (§ 1 ch 98 SLA 1966; am § 1 ch 29 SLA 1969)

NOTES TO DECISIONS

Applied in *Skagway City School Bd. v. Davis*, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Quoted in *Begich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Sec. 14.14.140. Restriction on employment. (a) While serving on the school board, a member may not be employed by that local school board. Members of the immediate family of a school board member may not be employed by the school board except upon written approval of the commissioner.

(b) Members of the immediate family of a chief school administrator may not be employed by the chief school administrator except upon written approval of the school board.

(c) A school board member may receive compensation for time spent in the performance of duties as a school board member if the compensation is authorized by resolution adopted by the school board. The restriction in (a) of this section does not apply to this compensation. (§ 1 ch 98 SLA 1966; am § 2 ch 29 SLA 1969; am § 5 ch 24 SLA 1979; am § 2 ch 26 SLA 1980)

NOTES TO DECISIONS

Term "immediate family," as used in section, is broad enough to include siblings. *Degnan v. Bering Strait School*

Dist., Sup. Ct. Op. No. 3310 (File No. S-2011), 753 P.2d 146 (1988).

Sec. 14.14.150. Association of Alaska School Boards the representative agency of board members. The Association of Alaska School Boards is recognized as the organization and representative agency of the members of the school boards of the state. (§ 1 ch 98 SLA 1966)

Sec. 14.14.160. Cooperation and support of certain association functions. (a) The department and local districts may cooperate

with the Association of Alaska School Boards in its inservice training program for school board members and in encouraging and fostering cooperation among the school boards affiliated with the Association of Alaska School Boards.

(b) School districts may expend district money to carry out the provisions of (a) of this section. (§ 1 ch 98 SLA 1966)

Secs. 14.14.170 — 14.14.200. Community school committees; qualifications of members and voters; terms of office and vacancies; duties. [Repealed, § 6 ch 24 SLA 1979.]

Article 2. Involvement of Young People in School Governance.

Section	Section
250. Establishment of committee	290. Interns
260. Composition and chairman	300. Appointment to district committees or other advisory bodies
270. Compensation and per diem	310. Definitions
280. Functions of the committee	

Sec. 14.14.250. Establishment of committee. A school board may create a committee or other advisory body on the involvement of young people in school governance. (§ 4 ch 40 SLA 1972)

Sec. 14.14.260. Composition and chairman. The committee may consist of not more than nine members, drawn from the fields of public affairs, education, the sciences, the professions, other fields of private endeavor, from the state or local service, and three additional members from the 17-22 age group, and shall include women and representatives of minority groups. The members shall be appointed by the board in the manner prescribed by the board without regard to political affiliation and shall serve at the pleasure of that body. One member shall be designated by the board as chairman of the committee. (§ 4 ch 40 SLA 1972)

Sec. 14.14.270. Compensation and per diem. Members of the committee or other advisory body serve without compensation but are entitled to per diem and travel expenses as may be authorized by the board. (§ 4 ch 40 SLA 1972)

Sec. 14.14.280. Functions of the committee. (a) The committee shall establish procedures to enable it to recommend annually to the board a group of promising young men and women from whom the board may select interns and youth voting members of district committees or other advisory bodies. The committee, in establishing these procedures, shall enlist the aid of district residents who are actively interested in working with young people. Following adoption of the procedures, the committee shall accept applications from individuals

§ 14.14.290 COMPILED SCHOOL LAWS OF ALASKA § 14.14.310

and nominations for consideration, and shall interview all applicants or nominees.

(b) Recommendations of the committee shall be limited to young people who

(1) have a capacity, desire, interest, ability and potential for leadership and service to the community and to the state;

(2) will have attained the age of 17 but not the age of 22 before the beginning of their service.

(c) Annually, the committee shall evaluate the program and shall submit a written report to the board. (§ 4 ch 40 SLA 1972)

Sec. 14.14.290. Interns. An intern may be appointed to serve on the staff of the board or the district administrator for a period of time prescribed by the board, with a maximum of one year. An intern may be assigned responsibilities in any office, department or agency of the district. Service will begin at a time prescribed by the board. Interns shall be appointed without regard to political affiliation. Salaries shall be individually established by the board on the basis of prior experience and the responsibilities of the position to which the intern is assigned. (§ 4 ch 40 SLA 1972)

Sec. 14.14.300. Appointment to district committees or other advisory bodies. (a) Notwithstanding AS 39.05.100 or a provision of law relating to age, the board may appoint any 17-21 year old district resident to a district committee or advisory body if recommended by the youth involvement committee.

(b) A young person recommended by the committee may be appointed to district committees or advisory bodies with special qualifications for membership if the proposed nominee, meets the required qualifications set by law, except for age.

(c) An individual appointed to a district committee or advisory body under this section is entitled to the rights, privileges and responsibilities of other members, and the appointment is subject to confirmation by the board when required by law. An additional seat on a district committee or advisory body is not created by virtue of AS 14.14.250 — 14.14.310. (§ 4 ch 40 SLA 1972)

Sec. 14.14.310. Definitions. In AS 14.14.250 — 14.14.310

(1) "board" means the governing body of a borough or city school district or regional educational attendance area;

(2) "district" means a borough, city or regional educational attendance area. (§ 4 ch 40 SLA 1972; am § 11 ch 124 SLA 1975)

Chapter 15. School Districts and City Schools.

[Repealed, § 59 ch 98 SLA 1966.]

Chapter 16. Special Schools.

Section	Section
10. Establishment of state boarding school	50. Applicability of education laws
20. Operation of state boarding school	60. Status of employees
30. Admission to school	70. Applicability of other law
40. Status of state boarding school	80. Financial provisions applicable to state boarding school

Sec. 14.16.010. Establishment of state boarding school. The department may establish and operate a boarding school, to be known as the Mt. Edgecumbe High School, to be managed in accordance with this chapter. The state boarding school must offer a secondary education curriculum to students enrolled in it, and must provide domiciliary services for students needing such services. (§ 1 ch 73 SLA 1988)

Sec. 14.16.020. Operation of state boarding school. In the management of the state boarding school, the board shall

- (1) adopt a philosophy of education for the state boarding school;
- (2) employ a chief school administrator and approve the employment of other personnel necessary to operate the state boarding school;
- (3) establish the salaries and benefits to be paid teachers, excluding administrators, of the state boarding school;
- (4) designate the employees authorized to direct disbursements from the money appropriated for the operation of the state boarding school and for the construction of its facilities;
- (5) provide custodial services and routine maintenance of the state boarding school's physical facilities;
- (6) establish procedures for the development and implementation of curriculum and the selection and use of textbooks and instructional materials at the state boarding school;
- (7) prescribe health evaluation and placement screening programs for newly admitted students;
- (8) establish procedures for staff evaluation; and
- (9) provide staff training. (§ 1 ch 73 SLA 1988)

Sec. 14.16.030. Admission to school. (a) The state boarding school may admit students who are qualified in accordance with applicable admission standards. Preference for enrollment must be given to students currently enrolled at the boarding school and to students whose educational, emotional, or family requirements warrant attendance in a domiciliary environment.

(b) The board shall prescribe admission standards and procedures by regulation. Admission standards may not discriminate in favor of or against any resident based on race, sex, creed, national origin, or the location or type of residence within the state. (§ 1 ch 73 SLA 1988)

Sec. 14.16.040. Status of state boarding school. The state boarding school is a public school of the state. (§ 1 ch 73 SLA 1988)

Sec. 14.16.050. Applicability of education laws. (a) The following provisions apply with respect to the operation and management of the state boarding school as if it were a school district:

(1) requirements relating to school district operations:

(A) AS 14.03.030 — 14.03.050 (defining the school term, day in session, and school holidays);

(B) AS 14.03.083 — 14.03.140 (miscellaneous provisions applicable to school district operations);

(C) regulations adopted by the board under authority of AS 14.07.020(a) that are applicable to school districts and their schools, unless the board specifically exempts the state boarding school from compliance with a regulation;

(D) AS 14.12.150 (authorizing school districts to establish and participate in the services of a regional resource center);

(E) AS 14.14.050 (imposing the requirement of an annual audit);

(F) AS 14.14.110 (authorizing cooperation with other school districts);

(G) AS 14.14.130 (directing the employment of a chief school administrator);

(H) AS 14.14.140(b) (establishing a prohibition on employment of a relative of the chief school administrator);

(I) AS 14.18 (prohibiting discrimination based on sex in public education);

(2) requirements relating to state financial assistance for education and the receipt and expenditure of that assistance:

(A) AS 14.17.080 (relating to student count estimates);

(B) AS 14.17.082 (relating to school operating fund balances);

(C) AS 14.17.160 — 14.17.220 (setting out the procedure for payment of financial assistance, and imposing general requirements and limits on money paid);

(3) requirements relating to teacher employment and retirement:

(A) AS 14.14.105 and 14.14.107 (relating to sick leave);

(B) AS 14.20.095 — 14.20.210 (relating to the employment and tenure of teachers);

(C) AS 14.20.220 (relating to the salaries of teachers employed);

(D) AS 14.20.280 — 14.20.350 (relating to sabbatical leave provisions for teachers);

§ 14.16.050 COMPILED SCHOOL LAWS OF ALASKA § 14.16.080

(E) AS 14.20.550 — 14.20.610 (authorizing collective bargaining, negotiation, and mediation by certificated employees), except with regard to teachers who are administrators and except that the board may delegate some or all of its responsibilities under those statutes;

(F) AS 14.25 (provisions regarding the teachers' retirement system);

(4) requirements relating to students and educational programs:

(A) AS 14.30.180 — 14.30.350 (relating to educational services for exceptional children);

(B) AS 14.30.360 — 14.30.370 (establishing health education program standards);

(C) AS 14.30.400 — 14.30.410 (relating to bilingual and bicultural education).

(b) A person employed as a teacher at Mt. Edgecumbe High School on May 28, 1988, acquires tenure rights in accordance with AS 14.20.150 and 14.20.155 as though the person had been employed by a school district. (§ 1 ch 73 SLA 1988)

Sec. 14.16.060. Status of employees. The employees of the state boarding school are state employees. (§ 1 ch 73 SLA 1988)

Sec. 14.16.070. Applicability of other law. AS 23.40.070 — 23.40.260 (Public Employment Relations Act) apply to the employees of the state boarding school who are not subject to AS 14.20. (§ 1 ch 73 SLA 1988)

Sec. 14.16.080. Financial provisions applicable to state boarding school. (a) AS 14.17.024 applies to the calculation of state aid payable for operation of the state boarding school.

(b) In the transmittals required by AS 37.07.060 — 37.07.062, the governor shall request amounts for the expenses of construction, rehabilitation, and improvement of the facilities of the state boarding school.

(c) Unless specified otherwise in any appropriation bill, AS 37.25.010 does not apply to an appropriation made for the purposes of (a) of this section.

(d) AS 37.25.020 applies to money appropriated for the purposes of (b) of this section.

(e) For purposes of application for and receipt of federal aid to education, the state boarding school constitutes a local educational agency. (§ 1 ch 73 SLA 1988)

Chapter 17. Public School Foundation Program.

Article

1. State Aid to Local School Districts (§§ 14.17.010, 14.17.024, 14.17.045, 14.17.160)
2. Preparation of Public School Foundation Budget (§§ 14.17.060 — 14.17.150)
3. Procedure for Payment of Public School Foundation Funds to Districts (§§ 14.17.160 — 14.17.190)
4. General Provisions (§§ 14.17.200 — 14.17.250)

Cross references. — For applicability of this chapter to state aid for regional educational attendance areas formed un-

der § 2, ch. 66, SLA 1985, see § 3, ch. 66, SLA 1985 in the Temporary and Special Acts.

Article 1. State Aid to Local School Districts.

Section

10. Public school foundation account
21. State foundation aid
22. Money for centralized correspondence study
24. Money for state boarding school
25. Local contributions
31. Allowable instructional units
41. Elementary and secondary instructional units

Section

43. Vocational education instructional units
45. Special education instructional units
47. Bilingual education instructional units
51. Area cost differential
56. Instructional unit value
160. Student counting periods

Collateral references. — 68 Am. Jur. 2d Schools, §§ 85-98.
79 C.J.S. Schools and School Districts, §§ 331-353, 376-413.
Right of school district to maintain ac-

tion based on misapportionment of school money. 106 ALR 1273.

Determination of school attendance, enrollment, or pupil population for purpose of apportionment of funds. 80 ALR2d 953.

Sec. 14.17.010. Public school foundation account. (a) The public school foundation account is established. The account consists of appropriations for distribution to school districts, the state boarding school, and for centralized correspondence study programs under this chapter.

(b) The money of the account may be used only in aid of public schools, including community school programs, and for centralized correspondence study programs as provided by this chapter. (§ 1.08 ch 164 SLA 1962; am § 11 ch 95 SLA 1969; am § 2 ch 190 SLA 1975; am § 1 ch 91 SLA 1987; am § 2 ch 73 SLA 1988)

Effect of amendments. — The 1988 amendment substituted "school districts, the state boarding school" for "districts" in the second sentence in subsection (a).

NOTES TO DECISIONS

Legislature decides what types of education are to be publicly supported. — In Alaska the power of deciding what types of education are to be publicly supported, either under the School

Foundation Act or by tax exemption, is vested with the legislature. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

Sec. 14.17.020. State aid. [Repealed, § 1 ch 238 SLA 1970.]

Sec. 14.17.021. State foundation aid. (a) The amount of state foundation aid for which a school district may qualify in a fiscal year is calculated by subtracting from the basic need defined in (b) of this section the required local contributions under AS 14.17.025(a) and 90 percent of eligible federal impact aid for that fiscal year.

(b) The basic need of a school district is determined by multiplying the area cost differential of the district under AS 14.17.051 by the number of instructional units in the district under AS 14.17.031 and then multiplying that product by the instructional unit value in AS 14.17.056. (§ 4 ch 238 SLA 1970; am §§ 1, 2 ch 81 SLA 1975; am §§ 1, 2 ch 173 SLA 1976; am §§ 2, 3 ch 90 SLA 1977; am §§ 3, 4 ch 26 SLA 1980; am § 2 ch 75 SLA 1986; am § 2 ch 91 SLA 1987)

Cross references. — For additional state foundation aid applicable to fiscal years 1988 — 1990, see § 24, ch. 91, SLA 1987 in the Temporary and Special Acts.

Effect of amendments. — The 1986 amendment rewrote this section.

The 1987 amendment rewrote this section.

NOTES TO DECISIONS

That the legislature has seen fit to delegate certain educational functions to local boards in order that Alaska schools might be adapted to meet the varying conditions of different localities

does not diminish constitutionally mandated state control over education under Alaska Const., art. VII, § 1. *Macauley v. Hildebrand*, Sup. Ct. Op. No. 741 (File No. 1550), 491 P.2d 120 (1971).

Sec. 14.17.022. Money for centralized correspondence study. Money for providing centralized correspondence study programs for students not enrolled in an approved school district correspondence study program includes an allocation from the public school foundation account in an amount calculated by multiplying the instructional unit value in AS 14.17.056 by the total number of instructional units, as determined by applying the number of correspondence students to the formula for elementary schools in AS 14.17.041(b)(1), then multiplying that product by 65 percent. (§ 3 ch 190 SLA 1975; am § 3 ch 91 SLA 1987)

Effect of amendments. — The 1987 amendment substituted "Money" for "Funds" in the catchline and in the first sentence, "includes" for "shall include," "allocation" for "appropriation" and "the formula for elementary schools in AS

14.17.041(b)(1), then multiplying that product by 65 percent" for "AS 14.17.041(a)," deleted "base" preceding "instructional units," and inserted "value in AS 14.17.056."

Sec. 14.17.023. Secondary formula account. [Repealed, § 25 ch 91 SLA 1987.]

Sec. 14.17.024. Money for state boarding school. (a) Money for the instructional services provided in a fiscal year by the state boarding school established under AS 14.16.010 includes an allocation from the public school foundation account in an amount calculated by

(1) multiplying the instructional unit value in AS 14.17.056 by the total number of instructional units under AS 14.17.031 for that fiscal year, as determined by treating the school as if it were a school district consisting of a single funding community;

(2) multiplying the product determined under (1) of this subsection by the area cost differential that is applicable to calculation of the entitlement for the adjacent school district under AS 14.17.051; and

(3) adding 10 percent of the eligible federal impact aid received for that fiscal year on behalf of the school plus any federal impact aid received on behalf of the school which the state, under P.L. 81-874 (20 U.S.C. 236 — 244), as amended, and regulations adopted under it, could not consider as local resources if the school were considered a school district.

(b) In addition to the amount calculated and payable under (a) of this section, the governor shall request from the legislature appropriation of any program receipts or federal food service reimbursements or other federal aid, other than aid under P.L. 81-874 (20 U.S.C. 236 — 244), as amended, received on behalf of the school, and other amounts necessary for the expenses of operating the state boarding school, including

(1) domiciliary services, including room, board, custodial services, and other reasonable expenses related to the operation and maintenance of dormitory and other residential facilities for students;

(2) student transportation services, to include one round trip for each student between the student's place of residence and the site of the state boarding school during each school year; and

(3) maintenance and operation of the school's physical plant.

(c) Money received by the state boarding school for purposes described in (a) of this section may be used for the purposes described in (b) of this section, and money received for the purposes described in (b) may be used for the purposes described in (a). (§ 3 ch 73 SLA 1988)

Effective dates. — Section 8, ch. 73, SLA 1988, provides: "Section 3 of this act takes effect July 1, 1988."

Sec. 14.17.025. Local contributions. (a) Local contributions to a city or borough school district shall include at least the lesser of

(1) the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Regional Affairs under AS 14.17.140 and AS 29.45.110; or

(2) 35 percent of the district's basic need for the preceding fiscal year, as determined under AS 14.17.021(b).

(b) In addition to the local contributions required under (a) of this section, local contributions to a city or borough school district in a fiscal year may include no more than the greater of

(1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Regional Affairs under AS 14.17.140 and AS 29.45.110; or

(2) the product obtained by multiplying

(A) 21 percent of the instructional unit value in AS 14.17.056;

(B) the number of instructional units approved for the district for the fiscal year; and

(C) the area cost differential of the district under AS 14.17.051.

(c) The department may by regulation reduce the maximum local contribution specified in (b) of this section if necessary to keep revenue or expenditure disparities among school districts in the state in compliance with federal equalization requirements under sec. 5(d) — (2) of P.L. 81-874 (20 U.S.C. 240(d)(2)), as amended, and regulations adopted under it.

(d) Local contributions are not required in a regional educational attendance area. Interest earnings and other local revenue in a regional educational attendance area are not considered local revenue for current operating expenditures, and are subject to regulation and disposition by the department.

(e) A state foundation aid payment may not be made to a city or borough school district in which the requirements of (a) of this section have not been met.

(f) For the first two fiscal years in which a district is subject to this section, local contributions may be less than the amount that would

otherwise be required under (a) of this section. However, local contributions must be at least the greater of

(1) the local contributions, excluding any federal impact aid, for the previous fiscal year; or

(2) the sum of 10 percent of the district's eligible federal impact aid for that year and, for the first year, the equivalent of a two mill tax levy and for the second year, the equivalent of a three mill tax levy, on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Regional Affairs under AS 14.17.140 and AS 29.45.110.

(g) A school district is eligible for additional state aid in the amount by which the local contributions that would otherwise have been required under (a) of this section exceed the district's actual local contributions under (f) of this section. (§ 4 ch 91 SLA 1987)

Cross references. — For provisions applicable to the calculation of required local contributions for fiscal year 1988, see § 24(a), ch. 91, SLA 1987 in the Temporary and Special Acts.

Sec. 14.17.027. Revenue adjustment. [Repealed, § 25 ch 91 SLA 1987.]

Sec. 14.17.030. Required local effort. [Repealed, § 11 ch 95 SLA 1969.]

Sec. 14.17.031. Allowable instructional units. (a) The department shall adopt regulations defining funding communities within each district which reflect geographic and attendance area factors. For the purpose of determining instructional units, students are counted in the district and the funding community from which they receive educational services. The total number of instructional units in a school district is the sum of the following units for each funding community within the district, as determined by the department

(1) the number of units for elementary and secondary students determined under AS 14.17.041(a) or (b);

(2) the number of units for vocational education determined under AS 14.17.043;

(3) the number of units for special education determined under AS 14.17.045; and

(4) the number of units for bilingual education determined under AS 14.17.047.

(b) For purposes of (a)(1) of this section, in fiscal years beginning after July 1, 1987, 90 percent of the district's total elementary and secondary instructional units for the preceding fiscal year is used if that number is greater than the district's total under (a)(1) of this section for the current fiscal year. (§ 4 ch 238 SLA 1970; am § 3 ch 81

SLA 1975; am § 4 ch 190 SLA 1975; am §§ 4 — 6 ch 90 SLA 1977; am § 1 ch 115 SLA 1978; am §§ 6 — 8 ch 26 SLA 1980; am § 5 ch 75 SLA 1986; am § 5 ch 91 SLA 1987)

Effect of amendments. — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

Sec. 14.17.040. Basic need. [Repealed, § 1 ch 238 1970.]

Sec. 14.17.041. Elementary and secondary instructional units.
(a) For funding communities that have an average daily membership of less than 200 in grades K-6 or less than 200 in grades 7-12, combined elementary and secondary instructional units are determined under the following table:

ADM	No. Instructional Units
1 — 10	2
11 — 20	2 + ((ADM-10)/5)
21 — 60	4 + ((ADM-20)/8)
61 — 120	9 + ((ADM-60)/12)
121 — 525	14 + ((ADM-120)/15)

(b) For funding communities that are not included under (a) of this section,

(1) instructional units for elementary students are determined by the formula:

units = 15 + ((ADM-200)/17), where ADM is the number of students in average daily membership in grades kindergarten through 6;

(2) instructional units for secondary students are determined by the formula:

units = 18 + ((ADM-200)/13), where ADM is the number of students in average daily membership in grades 7 through 12.

(c) Kindergarten students who attend school less than four hours a day are counted as 0.5 ADM under (a) and (b) of this section.

(d) District correspondence or other students who do not regularly attend school on a daily basis are counted in the appropriate grade level of the funding community with the highest ADM in the district. (§ 4 ch 238 SLA 1970; am § 1 ch 137 SLA 1972; am § 4 ch 81 SLA 1975; am § 7 ch 90 SLA 1977; am § 2 ch 115 SLA 1978; am §§ 9 — 11, 20 ch 26 SLA 1980; am § 1 ch 119 SLA 1981; § 26 ch 59 SLA 1982; am § 6 ch 75 SLA 1986; am § 6 ch 91 SLA 1987)

Effect of amendments. — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

Sec. 14.17.043. Vocational education instructional units. Vocational education instructional units for vocational education courses approved by the department are calculated as the sum, for all of those courses in the funding community, of the products obtained by multiplying 0.05 by the ADM full-time equivalent of the course, and then by the cost weighting factor for the course determined under department regulations. A funding community in which a vocational education course approved by the department is operated receives a minimum of 0.10 instructional units for vocational education, or each district in which a vocational education course is operated receives a minimum of 1.00 instructional units, whichever is greater. (§ 7 ch 91 SLA 1987)

Sec. 14.17.045. Special education instructional units. (a) An exceptional child, as defined in AS 14.30.350, who is enrolled in a special education program, approved by the department, on the last day of the counting period for which a determination is being made, generates 0.025 instructional units if the child receives gifted services, 0.056 instructional units if the child receives resource services, 0.1 instructional units if the child receives self-contained services, or 0.333 instructional units if the child receives intensive or hospital/homebound services, as those categories of service are defined by the department by regulation, in the funding community in which the child is served. A child may be counted in one special education category only.

(b) Notwithstanding (a) of this section, in a district that offers a special education program each funding community receives a minimum of 0.25 instructional units for special education for each funding community in which a child is served or the district receives a minimum of 1.00 instructional units for special education, whichever is greater. (§ 7 ch 91 SLA 1987)

Sec. 14.17.047. Bilingual education instructional units. A student for whom an appropriate bilingual program must be provided under regulations adopted by the department, and who is enrolled in a bilingual program, approved by the department, as of the last day of the counting period for which a determination is being made, generates, in the funding community in which the student is served, the number of bilingual education instructional units that is the product obtained by multiplying 0.042 by the student's language dominance category weight under department regulations. A funding community in which a bilingual program approved by the department is operated receives a minimum of 0.10 instructional units for bilingual education, or a district in which a bilingual program is operated receives a minimum of 1.00 instructional units, whichever is greater. (§ 7 ch 91 SLA 1987)

§ 14.17.050 COMPILED SCHOOL LAWS OF ALASKA § 14.17.051

Sec. 14.17.050. Teachers' salary allotment. [Repealed, § 1 ch 238 SLA 1970.]

Sec. 14.17.051. Area cost differential. The area cost differential for a school district is as follows:

School District	Area Cost Differential
Adak	1.27
Alaska Gateway	1.19
Aleutian Region	1.31
Anchorage	1.00
Annette Island	1.03
Bering Strait	1.39
Bristol Bay	1.27
Chatham	1.03
Chugach	1.14
Copper River	1.14
Cordova	1.11
Craig	1.03
Delta/Greely	1.16
Dillingham	1.27
Fairbanks	1.04
Galena	1.30
Haines	1.05
Hoonah	1.08
Hydaburg	1.03
Iditarod	1.33
Juneau	1.00
Kake	1.03
Kashunamiut	1.33
Kenai	1.00
Ketchikan	1.00
King Cove	1.27
Klawock	1.03
Kodiak	1.09
Kuspuk	1.33
Lake & Peninsula	1.31
Lower Kuskokwim	1.42
Lower Yukon	1.35
Matanuska-Susitna	1.00
Nenana	1.20
Nome	1.34
North Slope	1.45
Northwest Arctic	1.45
Pelican	1.08
Petersburg	1.00

Pribilof	1.30
Railbelt	1.23
Sand Point	1.27
Sitka	1.00
Skagway	1.05
Southeast Island	1.04
Southwest Region	1.31
St. Mary's	1.30
Tanana	1.30
Unalaska	1.27
Valdez	1.11
Wrangell	1.00
Yakutat	1.08
Yukon Flats	1.46
Yukon-Koyukuk	1.34
Yupit	1.41

(§ 4 ch 238 SLA 1970; am § 1 ch 40 SLA 1971; am § 5 ch 81 SLA 1975; am § 12 ch 124 SLA 1975; am § 8 ch 90 SLA 1977; am §§ 3 — 6 ch 115 SLA 1978; am § 12 ch 26 SLA 1980; am § 6 ch 119 SLA 1981; am § 7 ch 75 SLA 1986; am § 8 ch 91 SLA 1987)

Effect of amendments. — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

Sec. 14.17.058. Instructional unit value. The instructional unit value is \$60,000. (§ 4 ch 238 SLA 1970; am § 1 ch 88 SLA 1973; am § 1 ch 140 SLA 1974; am § 6 ch 81 SLA 1975; am § 3 ch 173 SLA 1976; am § 10 ch 90 SLA 1977; am § 7 ch 115 SLA 1978; am §§ 13, 14 ch 26 SLA 1980; am § 5 ch 119 SLA 1981; am § 28 ch 59 SLA 1982; am § 8 ch 75 SLA 1986; am § 9 ch 91 SLA 1987)

Effect of amendments. — The 1987 amendment deleted "Base" at the beginning of the catchline, deleted "base" preceding "instructional" and substituted "value is \$60,000" for "for fiscal years beginning on or after July 1, 1986, is \$42,184."

Sec. 14.17.060. Average daily membership allotment. [Repealed, § 1 ch 238 SLA 1970.]

Sec. 14.17.061. Supplemental programs. [Repealed, § 25 ch 91 SLA 1987.]

§ 14.17.070 COMPILED SCHOOL LAWS OF ALASKA § 14.17.081

Sec. 14.17.070. Attendance center allotment. [Repealed, § 1 ch 238 SLA 1970.]

Sec. 14.17.071. Required local effort. [Repealed, § 21 ch 26 SLA 1980.]

Sec. 14.17.075. Supplemental allocation. [Repealed, § 1 ch 238 SLA 1970.]

Article 2. Preparation of Public School Foundation Budget.

Section	Section
80. Student count estimates	140. Determination of full and true value
82. Fund balance in school operating fund	by Department of Community and Regional Affairs
139. New school districts	

Collateral references. — 68 Am. Jur. §§ 83, 90; 79 C.J.S. Schools and School Districts, §§ 91-108.
78 C.J.S. Schools and School Districts, §§ 325-331.

Sec. 14.17.080. Student count estimates. Each district shall prepare and submit to the department, by October 15 of each fiscal year, in the manner and on forms prescribed by the department, an estimate of its average daily membership and other student count data for the succeeding fiscal year, upon which computations can be made of the amount of estimated state foundation aid for which the district will be eligible under AS 14.17.021 in that fiscal year. In making this estimate, the district shall consider its average daily membership, other student count data, the pattern of growth or decline in preceding years, and other pertinent information available to the district. The preliminary reports required by this section are the basis for estimating the need for state foundation aid for the next fiscal year. (§ 2.01 ch 164 SLA 1962; am § 5 ch 238 SLA 1970; am § 49 ch 6 SLA 1984; am § 9 ch 75 SLA 1986; am § 10 ch 91 SLA 1987)

Effect of amendments. — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

Sec. 14.17.081. Minimum expenditure for instruction. [Repealed, § 15 ch 75 SLA 1986.]

Sec. 14.17.082. Fund balance in school operating fund. (a) A district may not accumulate in a fiscal year an unreserved portion of its year-end fund balance in its school operating fund, as defined by department regulations, that is greater than 10 percent of its expenditures for that fiscal year.

(b) The department shall review the annual audit of each district for the preceding fiscal year to ascertain its year-end operating fund balance. The amount by which the unreserved portion of that balance exceeds the amount permitted in (a) of this section shall be deducted from the state foundation aid that would otherwise be paid to the district in the current fiscal year. (§ 15 ch 26 SLA 1980; am § 11 ch 91 SLA 1987)

Effect of amendments. — The 1987 amendment rewrote this section.

Sec. 14.17.090. Estimated average daily membership. *[Repealed, § 25 ch 91 SLA 1987.]*

Secs. 14.17.100 — 14.17.120. Computation of teachers' salary allotment, average daily membership allotment, and attendance center allotment. *[Repealed, § 2 ch 238 SLA 1970.]*

Sec. 14.17.130. Computation of required local effort. *[Repealed, § 11 ch 95 SLA 1969.]*

Sec. 14.17.139. New school districts. Notwithstanding any other provision of law, a new school district may not be formed if the total number of pupils for the proposed school district is less than 250 unless the commissioner of education determines that formation of a new school district with less than 250 pupils would be in the best interest of the state and the proposed school district. (§ 10 ch 75 SLA 1986)

Sec. 14.17.140. Determination of full and true value by Department of Community and Regional Affairs. (a) To determine the amount of local effort under AS 14.17.025 and to aid the department and the legislature in planning, the Department of Community and Regional Affairs, in consultation with the assessor for each district, shall determine the full value of the taxable real and personal property in each city or borough district. If there is no local assessor or current local assessment for a district, then the Department of Community and Regional Affairs shall make the determination of full value from information available. In making the determination, the Department of Community and Regional Affairs shall be guided by AS 29.45.110. The determination of full value shall be made by October 1 and sent by certified mail, return receipt requested, on or before

that date to the president of the school board in each district. Duplicate copies shall be sent to the commissioner. The governing body of a borough or city that is a school district may obtain judicial review of the determination. The superior court may modify the determination of the Department of Community and Regional Affairs only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

(b) Motor vehicles subject to the motor vehicle registration tax under AS 28.10.431 shall be treated as taxable property under this section. (§ 2.07 ch 164 SLA 1962; am § 2 ch 95 SLA 1969; am § 6 ch 238 SLA 1970; am § 9 ch 200 SLA 1972; am § 1 ch 218 SLA 1976; am § 2 ch 256 SLA 1976; am § 14 ch 147 SLA 1978; am § 12 ch 94 SLA 1980; am § 50 ch 6 SLA 1984; am § 31 ch 74 SLA 1985; am § 11 ch 75 SLA 1986; am § 22 ch 14 SLA 1987; am § 12 ch 91 SLA 1987)

Effect of amendments. — The 1984 amendment, in subsection (a), deleted "To determine the equalized percentage to be applied to basic need under AS 14.17.021, and the matching ratio for required local effort under AS 14.17.071" at the beginning of the first sentence and changed the internal reference in the second sentence.

The 1985 amendment in subsection (a) substituted "AS 29.45.110" for "AS 29.53.060" at the end of the third sentence and "municipality that" for "borough or city which" in the next-to-last sentence.

The 1986 amendment rewrote this section.

The 1987 amendment, in subsection (a), in the first sentence substituted "amount of local effort under AS 14.17.025 and to

aid the department and the legislature in planning" for "equalized percentage to be applied to basic need under AS 14.17.021" and inserted "city or borough," deleted the former second sentence, which read: "Exemptions granted under ch. 129, SLA 1957, known as the Alaska Industrial Incentive Act (AS 43.25), shall be honored," in the fourth sentence substituted "by" for "before" and inserted "on or," in the sixth sentence substituted "a borough or city that is a school" for "the borough or city which is the," and in the last sentence substituted "of" for "or" following "abuse"; and in subsection (b) substituted "AS 28.10.431" for "AS 28.10.255" and "under" for "for purposes of (a) of."

Sec. 14.17.150. Duty of commissioner to examine and tabulate computations. [Repealed, § 25 ch 91 SLA 1987.]

Article 3. Procedure for Payment of Public School Foundation Funds to Districts.

Section

160 Student counting periods
170. Distribution of state foundation aid
190. Restrictions governing receipt and

expenditure of money from public school foundation account

Collateral references. — 79 C.J.S. Schools and School Districts. §§ 423-427. Right of school district to maintain action based on misapportionment of school money. 105 ALR 1273.

Determination of school attendance, enrollment, or pupil population for purpose of apportionment of funds. 80 ALR2d 953.

Sec. 14.17.160. Student counting periods. (a) Within two weeks after the end of the 20-school-day period ending the fourth Friday in October, each district shall transmit a report to the department that, under regulations adopted by the department, reports its average daily membership for that counting period, and other student count information that will aid the department in making a determination of its state foundation aid. If it makes the district eligible for more state foundation aid, a district may transmit, within two weeks after the 20-school-day period ending the second Friday in February, a similar report for that counting period. For centralized correspondence study, the October report shall be based on the period from July 1 through the fourth Friday in October, except that summer school students shall be counted as a proportionate fraction as determined by the department. The department may make necessary corrections in the report submitted, and shall notify the district of changes made. The commissioner shall notify the governor of additional appropriations the commissioner estimates to be necessary to fully fund the public school foundation program for the current fiscal year.

(b) Upon written request and for good cause shown, the commissioner may permit a district to use a 20-school-day counting period other than the periods set out in (a) of this section. However, the counting period must be 20 consecutive school days. (§ 3.01 ch 164 SLA 1962; am § 3 ch 95 SLA 1969; am § 8 ch 238 SLA 1970; am § 13 ch 91 SLA 1987)

Effect of amendments. — The 1987 amendment rewrote this section.

Sec. 14.17.170. Distribution of state foundation aid. (a) The department shall determine the state foundation aid for each school district in a fiscal year on the basis of the district's data reported under AS 14.17.160 for the counting period that makes the district eligible for the greatest number of instructional units. On or before the 15th day of each of the first nine months of each fiscal year, $\frac{1}{12}$ of each district's state foundation aid shall be distributed on the basis of the data reported for the preceding fiscal year. On or before the 15th day of each of the last three months of each fiscal year, $\frac{1}{3}$ of the balance of each district's state foundation aid shall be distributed, after the balance has been recomputed on the basis of student count and other data reported for the current fiscal year.

(b) If a district receives more state aid money than it is entitled to receive under this chapter, it shall immediately remit the amount of overpayment to the commissioner, to be returned to the public school foundation account. Upon an adequate showing of a cash flow shortfall, and in the discretion of the commissioner, the department may

§ 14.17.180 COMPILED SCHOOL LAWS OF ALASKA § 14.17.190

make advance payments to a school district. The total of advance payments may not exceed the amount of state foundation aid for which the district is eligible for the fiscal year. (§ 3.02 ch 164 SLA 1962; am § 1 ch 169 SLA 1968; am § 4 ch 95 SLA 1969; am § 9 ch 238 SLA 1970; am § 1 ch 135 SLA 1975; am § 12 ch 75 SLA 1986; am § 14 ch 91 SLA 1987)

Effect of amendments. — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

Sec. 14.17.180. Payment under final computation. (Repealed, § 25 ch 91 SLA 1987.)

Sec. 14.17.190. Restrictions governing receipt and expenditure of money from public school foundation account. (a) The public school foundation money distributed to a district during a year shall be received, held, and expended by the district subject to the provisions of law and regulations adopted by the department.

(b) Each district shall maintain complete financial records of the receipt and disbursement of public school foundation money, money acquired from local effort, and other money received by the district. The records must be in the form required by the department and are subject to audit by the department at any time. (§ 3.04 ch 164 SLA 1962; am § 5 ch 98 SLA 1966; am § 6 ch 95 SLA 1969; am § 15 ch 91 SLA 1987)

Effect of amendments. — The 1987 amendment, in subsection (b), in the first sentence inserted "complete," substituted a comma for "and" preceding "money acquired," and added "and other money received by the district," and in the last sentence substituted "department" for "commissioner" in the first instance and "department" for "commissioner or the board" in the second instance.

NOTES TO DECISIONS

Administrative hearing deadline. — The Department of Education's regulation providing for a 30-day deadline for an administrative hearing on a final action of the department, 4 AAC 40.040, is merely directory; the department's substantial compliance with the regulation is sufficient absent significant prejudice to the other party. *Cooper River School Dist. v. State, Dep't of Educ., Sup. Ct. Op. No. 2945 (File No. S-488), 702 P.2d 625 (1985).*

Article 4. General Provisions.

Section	Section
200. Regulations	225. Construction and implementation of chapter
210. State aid to newly established district schools	250. Definitions
220. Purpose	

Collateral references. — Validity of legislative delegation of taxing power to school districts in absence of express constitutional provision authorizing such delegation. 113 ALR 1416.

Extent of area within tax exemption extended to property used for educational, religious, or charitable purposes. 134 ALR 1176.

Tax exemption of educational institutions as extending to athletic fields or property used for social or recreation purposes. 143 ALR 274.

Tax exemption of property of religious, educational, or charitable body as extending to property or income thereof used in publication or sale of literature. 154 ALR 896.

Rescission of vote authorizing school district expenditure or tax. 68 ALR2d 1041.

Exemption of public school property

from assessments for local improvements. 15 ALR3d 847.

Garage or parking lot as within tax exemption extended to property of educational, charitable or hospital organizations. 33 ALR3d 938.

Validity of basing public school financing system on local property taxes. 41 ALR3d 1220.

Charitable or educational organization from sales or use taxes. 53 ALR3d 748.

Property of educational body tax exempted extending to property used by personnel as living quarters. 55 ALR3d 485.

Validity, under state constitution and laws, of issuance by state or state agency of revenue bonds to finance or refinance construction projects at private religious-affiliated colleges or universities. 95 ALR3d 1000.

What are educational institutions or schools within state property tax exemption provisions. 34 ALR4th 69H.

Sec. 14.17.200. Regulations. The department shall adopt regulations to implement this chapter. (§ 4.01 ch 164 SLA 1962; am § 6 ch 98 SLA 1966)

Sec. 14.17.205. State aid to districts operating approved school food service programs. [Repealed, § 25 ch 91 SLA 1987.]

Sec. 14.17.210. State aid to newly established district schools.
(a) A regional educational attendance area school which becomes a city or borough district school is considered a regional educational attendance area school for purposes of financial support until the expiration of a complete fiscal year after the date on which the school becomes a city or borough district school. This subsection does not prevent a local government from spending money to contribute to the financial support of a regional educational attendance area school which becomes a city or borough district school.

(b) For each subsequent fiscal year, the state shall disburse to the city or borough school district only the money to which the district is entitled under the public school foundation program. (§ 5.02 ch 164 SLA 1962; am § 25 ch 53 SLA 1973; am § 13 ch 124 SLA 1975)

Sec. 14.17.215. State aid to districts affected by state activities. [Repealed, § 20 ch 26 SLA 1980.]

Sec. 14.17.220. Purpose. It is the intention of the legislature, in enacting this public school foundation program, to assure an equitable level of educational opportunities for those in attendance in the public schools of the state. Except for the limitations of AS 14.17.025, this chapter may not be interpreted as preventing a public school district from providing educational services and facilities beyond those assured by the foundation program. (§ 1.01 ch 164 SLA 1962; am § 16 ch 91 SLA 1987)

Effect of amendments. — The 1987 amendment substituted "equitable" for "adequate" in the first sentence and "Ex- cept for the limitations of AS 14.17.025, this chapter may" for "This chapter shall" at the beginning of the last sentence.

Sec. 14.17.225. Construction and implementation of chapter.
(a) This chapter does not create a debt of the state. Each district shall establish, maintain, and operate under a balanced budget. The state is not responsible for the debts of a school district.

(b) Money to carry out the provisions of AS 14.17.010 — 14.17.190 may be appropriated annually by the legislature into the public school foundation account. If amounts in the account are insufficient to meet the allocations authorized under AS 14.17.010 — 14.17.190 for a fiscal year, each district's basic need shall be reduced pro rata as necessary to make the funds available sufficient to meet the allocations for that fiscal year. (§ 8 ch 95 SLA 1969; am § 1 ch 79 SLA 1971; am § 12 ch 90 SLA 1977; am § 51 ch 6 SLA 1984; am § 17 ch 91 SLA 1987)

Effect of amendments. — The 1984 amendment repealed former subsection (d), relating to the average daily membership allotment supplemental account. The 1987 amendment rewrote this section.

Secs. 14.17.230 — 14.17.240. Transition; repealer. [Repealed, § 2 ch 71 SLA 1972.]

Sec. 14.17.250. Definitions. In this chapter, unless the context otherwise requires

(1) "ADM full-time equivalent" means the aggregate class periods of pupil membership in specified classes for the student counting period for which a determination is being made, divided by the total number of all class periods in the student counting period;

(2) "average daily membership" or "ADM" means the aggregate days of membership of pupils divided by the actual number of days in session for the counting period for which a determination is being made;

(3) "commissioner" means the commissioner of the Department of Education;

(4) "district" means any city or borough school district or regional educational attendance area;

(5) "eligible federal impact aid" for a fiscal year means the amount of federal aid received by the district as of March 1 of the fiscal year as payment for its entitlement for the application submitted during the preceding fiscal year, including advance payments, and adjustments received since March 1 of the preceding fiscal year from prior year applications, under secs. 2, 3, and 4 of P.L. 81 — 874 (20 U.S.C. 237 — 239), as amended, except payments received under sec. 3(d)(3)(B)(ii) of that Act (20 U.S.C. 238(d)(3)(B)(ii)), to the extent the state may consider that aid as local resources under that Act and the regulations adopted under it;

(6) "fiscal year" means the year beginning July 1 and ending June 30 for which allotments and entitlements are computed or distributed;

(7) "local contributions" means appropriations to the school operating fund by the city or borough, interest earnings that a district is allowed to keep and spend on school operations, state tuition payments, the value of in-kind services performed by the city or borough, and 10 percent of the district's eligible federal impact aid.

(8) "pre-fiscal year" means the year immediately before the fiscal year;

(9) "public school foundation account" means the account created by AS 14.17.010 for use in financing education in public elementary and secondary schools;

(10) "taxable real and personal property" means all real and personal property taxable under the laws of the state. (§ 4.02 ch 164 SLA 1962; am §§ 7, 8 ch 98 SLA 1966; am § 3 ch 153 SLA 1966; am § 18 ch 69 SLA 1970; am §§ 3, 11 ch 238 SLA 1970; am § 2 ch 40 SLA 1971; am § 14 ch 124 SLA 1975; am § 8 ch 115 SLA 1978; am §§ 17, 18 ch 26 SLA 1980; am §§ 13, 14 ch 75 SLA 1986; am §§ 18 — 21, 25 ch 91 SLA 1987)

Revisor's notes. — Reorganized in 1986 and 1987 to alphabetize the defined terms.

Effect of amendments. — The 1986 amendment rewrote former paragraphs (5) and (10), which defined "elementary school" and "secondary school".

The 1987 amendment rewrote paragraph (1); in paragraph (2), inserted "or

ADM" and substituted "counting period for which a determination is being made" for "school term"; deleted "but does not include household goods and personal effects" at the end of paragraph (10), added paragraphs (5) and (7), and repealed the paragraphs defining "elementary school," "instructional unit," "secondary school," and "weighted ADM."

Chapter 18. Prohibition Against Discrimination Based on Sex in Public Education.

Section

- 10. Discrimination based on sex and race prohibited
- 20. Discrimination in employment prohibited
- 30. Discrimination in counseling and guidance services prohibited
- 40. Discrimination in recreational and athletic activities prohibited

Section

- 50. Discrimination in course offerings prohibited
- 60. Discrimination in textbooks and instructional materials prohibited
- 70. Affirmative action
- 80. Implementation
- 90. Enforcement by board of education
- 100. Remedies
- 110. Effect of chapter

Sec. 14.18.010. Discrimination based on sex and race prohibited. Recognizing the benefit to our state and nation of equal educational opportunities for all students, and equal employment opportunity for public education employees, discrimination on the basis of sex against an employee or a student in public education in Alaska and discrimination against an employee on the basis of race violate art. I, § 3 of the Alaska Constitution and are prohibited. No person in Alaska may on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal or state financial assistance. (§ 1 ch 17 SLA 1981; am § 1 ch 77 SLA 1988)

Effect of amendments. — The 1988 amendment inserted "and race" in the catchline and substituted "and discrimination against an employee on the basis of

race violate art. I, § 3 of the Alaska Constitution and are prohibited" for "violates art. I, § 3 of the Alaska Constitution and is prohibited" in the first sentence.

Sec. 14.18.020. Discrimination in employment prohibited. The board, the Board of Regents, and each school board in the state shall

(1) allow no difference in conditions of employment, including but not limited to hiring practices, credential requirements, leaves of absence, hours of employment, pay, employee benefits, and assignment of instructional and noninstructional duties on the basis of sex or race; and

(2) provide the same opportunities for advancement to males and females. (§ 1 ch 17 SLA 1981; am § 2 ch 77 SLA 1988)

Sec. 14.18.030. Discrimination in counseling and guidance services prohibited. Guidance and counseling services in public education are available to students equally and shall stress access to career and vocational opportunities to students without regard to sex. (§ 1 ch 17 SLA 1981)

Sec. 14.18.040. Discrimination in recreational and athletic activities prohibited. (a) Equal opportunity for both sexes in athletics and in recreation shall be provided in a manner which is commensurate with the general interests of the members of each sex. Separate school-sponsored teams may be provided for each sex. A school which sponsors separate teams in a particular sport shall provide equipment and supplies, services, and opportunities, including use of courts, gymnasiums, and pools, to both teams with no disparities based on sex. A school which provides showers, toilets, or training-room facilities for athletic or recreational purposes shall provide comparable facilities for both sexes, either through the use of separate facilities or by scheduling separate use by each sex.

(b) A school shall divide available evening time for athletic events fairly between events for each sex.

(c) The board and the Board of Regents of the University of Alaska shall adopt procedures to determine on an annual basis student interest in male and female participation in specific sports, athletics, and recreation. (§ 1 ch 17 SLA 1981)

Sec. 14.18.050. Discrimination in course offerings prohibited. (a) Except as provided in (b) this section, all public education classes are available to all students without regard to sex, and curriculum requirements may not be differentiated on the basis of sex.

(b) Separation of the sexes is permitted during sex education programs and during participation in physical education activities if the purpose of the activity involves bodily contact. (§ 1 ch 17 SLA 1981)

Sec. 14.18.060. Discrimination in textbooks and instructional materials prohibited. (a) School boards shall have textbooks and instructional materials reviewed for evidence of sex bias in accordance with AS 14.08.111(9) and AS 14.14.090(7). School boards shall use educationally sound, unbiased texts and other instructional materials as they become available. Nothing in this section prohibits use of literary works.

(b) The board shall establish by regulation standards for nondiscriminatory textbooks and educational materials. Each school board shall provide training for all its certificated personnel in the identification and recognition of sex-biased materials.

(c) The Board of Regents shall establish and implement a policy under AS 14.40.170(b) for the guidance of officers and employees of the university on the selection of nondiscriminatory textbooks and educational materials. (§ 1 ch 17 SLA 1981)

Sec. 14.18.070. Affirmative action. The board shall establish procedures for affirmative action programs covering both equal employ-

ment and equal educational opportunity to be implemented by all school districts and regional educational attendance areas determined by the board not to be in compliance with this chapter. (§ 1 ch 17 SLA 1981)

Sec. 14.18.080. Implementation. (a) The board shall adopt regulations under the Administrative Procedure Act (AS 44.62) to implement this chapter.

(b) The Board of Regents shall adopt rules under AS 14.40.170(b)(1) to implement this chapter. (§ 1 ch 17 SLA 1981)

Sec. 14.18.090. Enforcement by board of education. (a) The board shall enforce compliance by school districts and regional educational attendance areas with the provisions of this chapter and the regulations and procedures adopted under it by appropriate order made in accordance with AS 44.62. After hearing and a finding that a district or a regional educational attendance area is not in compliance with this chapter and is not actively working to come into compliance, the board shall institute appropriate proceedings to abate the practices found by the board to be a violation of this chapter.

(b) After a finding by the board that a district or regional educational attendance area has not complied with AS 14.18.020 — 14.18.070, and that the measures taken under (a) of this section have been ineffective, the board shall withhold state funds in accordance with AS 14.07.070. (§ 1 ch 17 SLA 1981)

Sec. 14.18.100. Remedies. (a) A person aggrieved by a violation of this chapter or of a regulation or procedure adopted under this chapter as to primary or secondary education may file a complaint with the board and has an independent right of action in superior court for civil damages and for such equitable relief as the court may determine.

(b) A person aggrieved by a violation of this chapter or of a regulation or procedure adopted under this chapter as to postsecondary education has an independent right of action in superior court for civil damages and for such equitable relief as the court may determine. (§ 1 ch 17 SLA 1981)

Sec. 14.18.110. Effect of chapter. This chapter is supplementary to and does not supersede existing laws relating to unlawful discrimination based on sex or race. (§ 1 ch 17 SLA 1981; am § 3 ch 77 SLA 1988)

Effect of amendments. — The 1988 amendment added "or race" at the end of the section.

Chapter 20. Teachers and School Officials.

Article

1. Teacher Certification (§§ 14.20.010 — 14.20.040)
2. Employment and Tenure (§§ 14.20.095 — 14.20.215)
3. Salary Scales (§ 14.20.220)
4. Sabbatical Leave (§§ 14.20.280 — 14.20.350)
5. Professional Teaching Practices Act (§§ 14.20.370 — 14.20.510)
6. Negotiation and Mediation (§§ 14.20.550 — 14.20.570, 14.20.590)
7. Interstate Agreement on Qualification of Educational Personnel (§§ 14.20.620 — 14.20.650)

Article 1. Teacher Certification.

Section

10. Teacher certificate required
20. Requirements for issuance of certificate

Section

30. Causes for revocation and suspension
40. Applicability of the Administrative Procedure Act

Collateral references. — 68 Am. Jur. 2d Schools. §§ 128-143.

78 C.J.S. Schools and School Districts, §§ 154-182.

Matters proper for consideration in appointment of teachers. 94 ALR 1484.

Tests of moral character of fitness as requisite to issuance of teacher's license or certificate. 96 ALR2d 536.

Bias of members of license revocation board. 97 ALR2d 1210.

Actionability of statements imputing inefficiency or lack of qualification to public school teacher. 40 ALR3d 490.

Self-defense or defense of another as justification, in dismissal proceedings, for use or threat of use of force against student. 37 ALR4th 842.

Sec. 14.20.010. Teacher certificate required. A person may not be employed as a teacher in the public schools of the state unless that person possesses a valid teacher certificate except that a person who has made application to the department for a teacher certificate or renewal of a teacher certificate which has not been acted upon by the department may be employed as a teacher in the public schools of the state until the department has taken action on the application, but in no case may employment without a certificate last longer than three months. (§ 37-5-3 ACLA 1949; am § 9 ch 98 SLA 1966; am § 1 ch 165 SLA 1976)

Sec. 14.20.020. Requirements for issuance of certificate. (a) The department shall issue a teacher certificate to every person who meets the requirements in (b) and (c) of this section.

(b) A person is not eligible for a teacher certificate unless that person has received at least a baccalaureate degree from an institution of higher education accredited by a recognized regional accrediting association or approved by the commissioner. However, this subsection is not applicable to

§ 14.20.030 COMPILED SCHOOL LAWS OF ALASKA § 14.20.030

(1) persons employed in the state public school system on September 1, 1962;

(2) persons issued an emergency certificate during a situation which, in the judgment of the commissioner, requires the temporary issuance of a certificate to a person not otherwise qualified.

(c) The board may establish by regulation additional requirements for the issuance of certificates, including the fees to be charged for each certificate.

(d) The board may by regulation establish various classes of certificates.

(e) The commissioner of administration shall separately account for teacher certification fees that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section and to support the activities of the Professional Teaching Practices Commission under AS 14.20.460, 14.20.470, and 14.20.500. (§ 37-5-4 ACLA 1949; am § 1 ch 76 SLA 1962; am § 10 ch 98 SLA 1966; am §§ 13, 14 ch 32 SLA 1971; am §§ 19, 20 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment added "including the fees to be charged for each certificate" at the end of subsection (c) and added subsection (e).

Sec. 14.20.030. Causes for revocation and suspension. The commissioner or the Professional Teaching Practices Commission may revoke or suspend a certificate only for the following reasons:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state or the regulations of the department; or

(4) upon a determination by the Professional Teaching Practices Commission that there has been a violation of ethical or professional standards or contractual obligations. (§ 11 ch 98 SLA 1966; am § 1 ch 9 SLA 1975; am § 1 ch 103 SLA 1976)

NOTES TO DECISIONS

Quoted in *Watts v. Seward School Bd.*,
Sup. Ct. Op. No. 380 (File No. 427), 421
P.2d 586 (1966).

Collateral references. — Temporary inability of teacher without fault of school authorities to perform duty as justifying termination of contract or removal. 72 ALR 283.

Candidacy for or incumbency of public office or other political activity by teacher or other school employee as ground for dismissal or compulsory leave of absence. 136 ALR 1154.

Validity of governmental requirement of oath of allegiance or loyalty as applied to college curators. 18 ALR2d 303.

Rejection of public school teacher because of disloyalty. 27 ALR2d 487.

Assertion of immunity as ground for discharge of teacher. 44 ALR2d 799.

Wearing of religious garb by public school teachers. 60 ALR2d 300.

Tests of moral character of fitness as requisite to issuance of teacher's license or certificate. 96 ALR2d 536.

Revocation of teacher's certificate for moral unfitness. 97 ALR2d 827.

What constitutes "incompetency" or "inefficiency" as a ground for dismissal or demotion of public school teacher. 4 ALR3d 1090.

Use of illegal drugs as ground for dismissal of teacher, or denial or cancellation of teacher's certificate. 47 ALR3d 754.

Dismissal of, or disciplinary action against, public school teachers for violation of regulation as to dress or personal appearance of teachers. 58 ALR3d 1227.

Sexual conduct as ground for dismissal of teacher or denial or revocation of teaching certificate. 78 ALR3d 19.

Sec. 14.20.040. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to all proceedings under AS 14.20.030, and revocations and suspensions are final and reviewable in accordance with AS 44.62.560 — 44.62.570. (§ 12 ch 98 SLA 1966; am § 2 ch 9 SLA 1975)

Sec. 14.20.090. Revocation of certificates. *[Repealed, § 59 ch 98 SLA 1966.]*

Article 2. Employment and Tenure.

Section

- 96. Right to comment and criticize not to be restricted
- 97. Duty-free time
- 100. Unlawful to require statement of religious or political affiliation
- 110. Penalty for violation of AS 14.20.100
- 120. Statement of qualifications
- 130. Employment of teachers and administrators
- 140. Notification of nonretention
- 145. Automatic re-employment
- 147. Transfer or absorption of attendance area or federal agency school
- 148. Intradistrict teacher reassignments

Section

- 150. Acquisition of tenure rights
- 155. Effect of tenure rights
- 158. Continued contract provisions
- 160. Loss of tenure rights
- 165. Restoration of tenure rights
- 170. Dismissal
- 175. Nonretention
- 180. Procedure and hearing upon notice of dismissal or nonretention
- 205. Judicial review
- 210. Authority of school board or department to adopt bylaws
- 215. Definitions

Collateral references. — 68 Am. Jur. 2d Schools, §§ 138-143, 149-214.
78 C.J.S. Schools and School Districts, §§ 154-217.

Extent of power of school district to provide for the comfort and convenience of

teachers and pupils. 7 ALR 791; 52 ALR 249.

Teacher as an officer whose right may be tested by quo warranto. 30 ALR 1423.

Status of teacher as an officer or employee. 75 ALR 1352.

§ 14.20.095 COMPILED SCHOOL LAWS OF ALASKA § 14.20.100

Teachers' tenure statutes. 110 ALR 791; 113 ALR 1496; 127 ALR 1298; 145 ALR 1078.

Schoolteacher as an employee within workmen's compensation acts. 140 ALR 1383.

Constitutionality and construction of repeal or modification by legislative action of teachers' tenure statute, as regards retrospective operation. 147 ALR 293.

Teacher's civil liability for administering corporal punishment. 43 ALR2d 469.

Right of school teacher to serve as member of school board in same school district where employed. 70 ALR3d 1188.

Who is "teacher" for purposes of tenure statute. 94 ALR3d 141.

Personal liability of public school teacher in negligence action for personal injury or death of student. 34 ALR4th 228.

Personal liability of public school executive or administrative officer in negligence action for personal injury or death of student. 35 ALR4th 272.

Personal liability in negligence action of public school employee, other than teacher or executive or administrative officer, for personal injury or death of student. 35 ALR4th 328.

Sec. 14.20.095. Right to comment and criticize not to be restricted. A bylaw or regulation of the commissioner, a school board, or local school administrator may not restrict or modify the right of a teacher to engage in comment and criticism outside school hours, regarding school personnel, members of the governing body of any school or school district, any other public official, or any school employee, to the same extent that any private individual may exercise the right. (§ 1 ch 14 SLA 1965; am § 13 ch 98 SLA 1966)

NOTES TO DECISIONS

This section was not enacted to be retrospective. *Watts v. Seward School Bd.*, Sup. Ct. Op. No. 554 (File No. 427), 454 P.2d 732 (1969), cert. denied, 397 U.S. 921, 90 S. Ct. 899, 25 L. Ed. 2d 101, rehearing denied, 397 U.S. 1071, 90 S. Ct. 1495, 25 L. Ed. 2d 696 (1970).

It applies to activities conducted outside school hours. *Watts v. Seward School Bd.*, Sup. Ct. Op. No. 554 (File No. 427), 454 P.2d 732 (1969), cert. denied, 397 U.S. 921, 90 S. Ct. 899, 25 L. Ed. 2d

101, rehearing denied, 397 U.S. 1071, 90 S. Ct. 1495, 25 L. Ed. 2d 696 (1970).

And is directed at rules or regulations which would restrict criticism of school officials. — This section is directed at the rules or regulations of a commissioner, a local school board, or a local administrator. *Watts v. Seward School Bd.*, Sup. Ct. Op. No. 554 (File No. 427), 454 P.2d 732 (1969), cert. denied, 397 U.S. 921, 90 S. Ct. 899, 25 L. Ed. 2d 101, rehearing denied, 397 U.S. 1071, 90 S. Ct. 1495, 25 L. Ed. 2d 696 (1970).

Sec. 14.20.097. Duty-free time. Each governing body shall allow its teachers in school facilities with four or more teachers a daily duty-free mealtime of at least 30 minutes between 11:00 a.m. and 1:00 p.m. (§ 1 ch 11 SLA 1969)

Sec. 14.20.100. Unlawful to require statement of religious or political affiliation. A school board, or a member of a school board may not require or compel a person applying for the position of teacher in the public schools of the state to state a religious or political affiliation. (§ 37-5-1 ACLA 1949)

§ 14.20.110 COMPILED SCHOOL LAWS OF ALASKA § 14.20.140

Collateral references. — Discrimination because of race, color, or creed in respect of appointment, duties, compensation, etc., of schoolteachers or other public officers or employees. 130 ALR 1512.

Validity of governmental requirement

of oath of allegiance or loyalty as applied to college curators. 18 ALR2d 303.

Dismissal or rejection of public schoolteacher because of disloyalty. 27 ALR2d 487.

Sec. 14.20.110. Penalty for violation of AS 14.20.100. A person violating AS 14.20.100 is punishable by a fine of not more than \$100. (§ 37-5-2 ACLA 1949).

Sec. 14.20.120. Statement of qualifications. A statement of the qualifications of each teacher and superintendent employed by the state or a school district shall be filed with the commissioner. The statement shall contain the credits earned in college, normal school, or university, and the number of years of teaching experience both in the state and elsewhere in the form and manner prescribed by the commissioner. (§ 37-6-5 ACLA 1949; am § 5 ch 179 SLA 1957; am § 12 ch 46 SLA 1970)

Sec. 14.20.130. Employment of teachers and administrators. An employer may, after January 1, issue contracts for the following school year to employees regularly qualified in accordance with the regulations of the department. The contract for a superintendent may be for more than one school year but may not exceed three consecutive school years. (§ 1 ch 92 SLA 1960; am § 14 ch 98 SLA 1966)

NOTES TO DECISIONS

Authority of school district to employ teachers. — A school district has no authority to employ teachers except as prescribed by statute and regulation. *Spicer v. Anchorage Independent School Dist.*, Sup. Ct. Op. No. 325 (File No. 576), 410 P.2d 995 (1966).

Letter from superintendent of

schools held not to be an offer of a contract. — See *Spicer v. Anchorage Independent School Dist.*, Sup. Ct. Op. No. 325 (File No. 576), 410 P.2d 995 (1966).

Cited in *Skagway City School Bd. v. Davis*, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Collateral references. — Duty of teacher to perform services other than those which pertain to instruction. 38 ALR 1414.

Instruction in physical education or

coaching of athletic sports as within duties assumed by, or that may be assigned to, teacher, or among the subjects in respect of which teacher applicants must qualify. 119 ALR 819.

Sec. 14.20.140. Notification of nonretention. (a) If a teacher who has acquired tenure rights is not to be retained for the following school year, the employer shall notify the teacher of the nonretention by writing, delivered before March 16, or by registered mail postmarked before March 16.

(b) If a teacher who has not acquired tenure rights is not to be retained for the following school year the employer shall notify the teacher of the nonretention by writing delivered on or before the last day of the school term or by registered mail postmarked on or before the last day of the school term. (§ 1 ch 92 SLA 1960; am § 15 ch 98 SLA 1966)

NOTES TO DECISIONS

Notice of nonretention sufficient. — See Griffin v. Galena City School Dist., Sup. Ct. Op. No. 2469 (File No. 5388), 640 P.2d 829 (1982); Martinez v. Anchorage

School Dist., Sup. Ct. Op. No. 2930 (File Nos. S-108, S-124), 699 P.2d 330 (1985). Quoted in State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Collateral references. — Notice of intention to discharge teacher, or not to re-

new contract, sufficiency under statutes requiring such notice. 92 ALR2d 751.

Sec. 14.20.145. Automatic re-employment. If notification of nonretention is not given according to AS 14.20.140 a teacher is entitled to be re-employed in the same district for the following school year on the contract terms the teacher and the employer may agree upon, or if no terms are agreed upon, the provisions of the previous contract are continued for the following school year, subject to AS 14.20.158. The right to be reemployed according to this section expires if the teacher does not accept reemployment within 30 days after the date on which the teacher receives a contract of reemployment. (§ 16 ch 98 SLA 1966)

NOTES TO DECISIONS

The purpose of tenure laws is to give job security to experienced teachers and to ensure that they will not be discharged for inadequate reasons. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

This section seeks to achieve this result by treating an improperly nonretained teacher as if the teacher had been retained, with no prejudice to result from the fact of nonretention. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

The effect of this section is to give an improperly nonretained teacher the enforceable right to a written contract of employment for the next school year containing provisions like those in the teacher's contract for the preceding year. Redman v. Department of Educ., Sup. Ct. Op. No.

1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

This section does not automatically continue a teacher's prior contract in the event proper notice of nonretention is not given. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

The language requiring that the provisions of the previous contract are to be continued for the following school year is intended to protect the teacher's legitimate expectation of continued employment on terms no less favorable than those previously enjoyed. It is not meant to require each term of the previous contract to be continued unchanged where the result would be to unreasonably penalize either the teacher or the employer. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

§ 14.20.147 COMPILED SCHOOL LAWS OF ALASKA § 14.20.147

No action for damages may be based on prior, expired contract. — Where the employer has refused to tender the teacher a new contract, the teacher may enforce the teacher's statutory right to be given a new contract and may then sue for breach of that contract, but an action for damages cannot be based upon a prior

contract that has expired. *Redman v. Department of Educ.*, Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Quoted in *State v. Redman*, Sup. Ct. Op. No. 765 (File No. 1431), 491 P.2d 187 (1971).

Sec. 14.20.147. Transfer or absorption of attendance area or federal agency school. (a) When an attendance area is transferred from a currently operating district to, or absorbed into, a new or existing school district, the teachers for the attendance area also shall be transferred unless otherwise mutually agreed by the teacher or teachers and the chief school administrator of the new district. Accumulated or earned benefits, including but not limited to, seniority, salary level, tenure, leave, and retirement, accompany the teacher who is transferred.

(b) When a school operated by a federal agency is transferred to or absorbed into a new or existing school district the teachers shall also be transferred if mutually agreed by the teacher or teachers and the school board of the new or existing district. A teacher transferred from a federal agency school, which does not have an official salary schedule or teacher tenure in the same manner as a public school district in the state, shall be placed on a position on the salary schedule of the absorbing district; the salary may not be less than the teacher would have received in the federal agency school. If the teacher taught two or more years in the federal agency school and, at the time of transfer, had a valid Alaska teaching certificate, that teacher shall be placed on tenure in the absorbing district.

(c) On the first day of service in the absorbing school district, a teacher transferred from a federal agency school shall be allowed the actual number of days of accumulated sick leave that the teacher has earned while teaching in the state. Consistent with the established district policy the absorbing district may allow credit for any other type of leave. Credit for retirement shall be allowed in accordance with AS 14.25.060. (§ 1 ch 53 SLA 1972; am § 1 ch 150 SLA 1975)

NOTES TO DECISIONS

Back pay is not a benefit for the purposes of subsection (a) of this section. *Alutian Region R.E.A.A. v. Wolansky*, Sup. Ct. Op. No. 2380 (File No. 8098), 630 P.2d 629 (1981).

Quoted in *Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71*, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.20.148. Intradistrict teacher reassignments. When a teacher is involuntarily transferred or reassigned to a position for which the teacher is qualified, within the district, the teacher's moving expenses shall be paid unless the one-way driving distance is 20 miles or less from the teacher's present place of residence, or unless otherwise mutually agreed by the teacher and chief school administrator of the district. (§ 1 ch 136 SLA 1972)

Collateral references. — Power of one school or district to another. 103 ALR school authorities to transfer teacher from 1382.

Sec. 14.20.150. Acquisition of tenure rights. (a) A teacher acquires tenure rights in a district when the teacher

- (1) possesses a standard teaching certificate;
- (2) has been employed as a teacher in the same district continuously for two full school years and is reemployed for the school year immediately following the two full school years.

(b) The tenure rights acquired under (a) of this section become effective on the first day the teacher performs teaching services in the district during the school year immediately following the two full school years. (§ 1 ch 92 SLA 1960; am § 17 ch 98 SLA 1966)

NOTES TO DECISIONS

Purpose of tenure laws. — Tenure laws are intended to give job security to experienced teachers and to ensure that they will not be discharged for inadequate reasons. *State v. Redman*, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

A system of tenure has as its objective the retention of able personnel after they have undergone an adequate period of probation with the concomitant result that more talented personnel will be attracted to enter the teaching profession. *State v. Redman*, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

The law does not require that teachers shall teach every day, or every hour of every day. *State v. Redman*, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

The supreme court fails to find any provision of Alaska statutes concerning education which requires, or to perceive of any persuasive policy reasons why, a

teacher must work full days throughout the school year in order to attain tenure rights. No legislative intent to exclude a teacher who works less than full days is manifest from a study of the applicable statutes. *State v. Redman*, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Duties regular and substantial enough to afford intelligent evaluation are sufficient. — When a teacher's duties are regular and substantial enough to afford intelligent evaluation, there is little in the way of persuasive policy considerations for excluding such service from the ambit of Alaska tenure laws. *State v. Redman*, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Cited in *Skagway City School Bd. v. Davis*, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975); *Crisp v. Kenni Peninsula Borough School Dist.*, Sup. Ct. Op. No. 1771 (File No. 3318), 587 P.2d 1168 (1978).

§ 14.20.155 COMPILED SCHOOL LAWS OF ALASKA § 14.20.158

Collateral references. — What amounts to waiver of status or rights under teachers' tenure statute. 145 ALR 1078.

Construction and effect of tenure provi-

sions of contract or statute governing employment of faculty member by college or university. 66 ALR3d 1018.

Who is "teacher" for purposes of tenure statute. 94 ALR3d 141.

Sec. 14.20.155. Effect of tenure rights. (a) A teacher who has acquired tenure rights has the right to employment within the district during continuous service.

(b) A teacher who has acquired tenure rights may agree to a new contract at any time. However, if the teacher fails to agree to a new contract, the provisions of the previous contract are continued subject to AS 14.20.158. (§ 18 ch 98 SLA 1966)

Collateral references. — Compensation of tenured teacher. 145 ALR 408; 154 ALR 148.

Sec. 14.20.158. Continued contract provisions. Continuation of the provisions of a teacher's contract under AS 14.20.145 or 14.20.155 does not

(1) affect the alteration of the teacher's salary in accordance with the salary schedule prescribed by state law, or in accordance with a local salary schedule applicable to all teachers in the district and adopted by bylaws;

(2) limit the right of the employer to assign the teacher to any teaching, administrative, or counseling position for which the teacher is qualified; or

(3) limit the right of the employer to assign the teacher, as is reasonably necessary, to any school in the district. (§ 19 ch 98 SLA 1966)

NOTES TO DECISIONS

This section puts the reemployed teacher in the same salary position he would have been in had his employment not been interrupted, regardless of his salary under his last contract. *Redman v. Department of Educ.*, Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

It further allows flexibility in the manner of reemployment where adherence to the strict terms of the prior contract would put an unreasonable burden on the employer. *Redman v. Department of Educ.*, Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Limited interpretation of section would defeat legislative intent. — A limited interpretation of this section as representing an exclusive list of the ways

in which an improperly nonretained teacher's prior contract may be varied would defeat the general intent of the legislature that an improperly nonretained teacher be returned to substantially the same position as before nonretention. *Redman v. Department of Educ.*, Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Ways prior contract may be varied. — In assessing damages due to improper nonretention, the strict terms of a teacher's prior contract may be varied in ways not specifically enumerated in this section where such modifications are necessary to protect the reasonable expectations of the parties. *Redman v. Department of Educ.*, Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

§ 14.20.160 COMPILED SCHOOL LAWS OF ALASKA § 14.20.170

AS 14.20.145 is expressly made subject to this section. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Sec. 14.20.160. Loss of tenure rights. Tenure rights are lost when the teacher's employment in the district is interrupted or terminated. (§ 1 ch 92 SLA 1960; am § 1 ch 104 SLA 1965; am § 20 ch 98 SLA 1966; am § 22 ch 37 SLA 1986)

Effect of amendments. — The 1986 amendment deleted "or when the teacher reaches the age of 65" at the end of the section.

Sec. 14.20.165. Restoration of tenure rights. A teacher who held tenure rights and who was retired due to disability under AS 14.25.130, but whose disability (1) has been removed, and the removal of that disability is certified by a competent physician following a physical or mental examination, or (2) has been compensated for by rehabilitation or other appropriate restorative education or training, and that rehabilitation or restoration to health has been certified by the division of vocational rehabilitation of the department, shall be restored to full tenure rights in the district from which the teacher was retired, at such time as an opening for which the teacher is qualified becomes available. (§ 1 ch 71 SLA 1975)

Sec. 14.20.170. Dismissal. (a) A teacher, including a teacher who has acquired tenure rights, may be dismissed at any time only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude; or

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent.

(b) A teacher may be suspended temporarily with regular compensation during a period of investigation to determine whether or not cause exists for the issuance of a notification of dismissal according to AS 14.20.180. (§ 2 ch 92 SLA 1960; am § 21 ch 98 SLA 1966; am §§ 1, 2 ch 104 SLA 1966)

Legislative history reports. — For report on ch. 104, SLA 1966, see 1966 House Journal, p. 988.

NOTES TO DECISIONS

In general. — See annotations under AS 14.20.095, Notes to Decisions.

Subsection (b) of this section is in a permissive form and allows temporary suspension during the investigation. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

A right of nontenured teachers to a hearing prior to dismissal for cause is not to be found in this section. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

The express language of subsection (b) of this section clearly lacks any indication that the legislature intended to provide a hearing prior to dismissal for cause of a nontenured teacher. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

Despite the reference to AS 14.20.180. — The reference to AS 14.20.180 in this section cannot reasonably be interpreted to extend the hearing rights given to tenured teachers under that section to nontenured teachers. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

The distinction in treatment between tenured and nontenured teachers is quite clear from the express terms of AS 14.20.180. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

Validity of dismissal proceedings. — When a discharged teacher had not demonstrated any way in which his dismissal was tainted by his temporary suspension with pay under subsection (b), nor any other way in which he was prejudiced by the suspension, his contention that the dismissal proceedings were void as a matter of law was found to be without merit. *Renfroe v. Green*, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Dismissal for immorality. — In subsection (a)(2), the act must constitute a crime involving moral turpitude; a criminal conviction is not necessary. *Kenai*

Peninsula Borough Bd. of Educ. v. Brown, Sup. Ct. Op. No. 2866 (File No. 7763), 691 P.2d 1034 (1984).

Although the Board of Education could not dismiss a teacher on an assumption that a violation of AS 42.20.030(7) (willfully diverting electricity) always constitutes a theft, the board had sufficient evidence to conclude that the teacher had committed theft, and the dismissal for immorality was therefore valid even if the teacher was not convicted under a theft statute. *Kenai Peninsula Borough Bd. of Educ. v. Brown*, Sup. Ct. Op. No. 2866 (File No. 7763), 691 P.2d 1034 (1984).

Instructions. — There was no error in the court's inclusion of an instruction on provisions of the Professional Teaching Practices Commission Code of Ethics although there had been no determination that a dismissed teacher had violated the code by the commission when fair minded jurors, in the exercise of reasonable judgment, could differ on whether certain actions by the dismissed teacher were unethical or otherwise constituted substantial non-compliance under subsection (a) of this section. *Renfroe v. Green*, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Directed verdict. — When there was evidence that a dismissed teacher had verbally and physically abused another member of the teaching profession in front of students; and fair minded jurors, in the exercise of reasonable judgment, could differ on whether those actions violated provisions of the code of ethics of the Professional Teaching Practices Commission or otherwise constituted incompetency or substantial noncompliance under subsection (a) of this section, the superior court did not err in failing to direct a verdict in the dismissed teacher's favor. *Renfroe v. Green*, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Cited in Shagway City School Bd. v. Davis, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Collateral references. — Temporary inability of teacher without fault of school authorities to perform duty as justifying termination of contract or removal. 72 ALR 283.

Marriage of teacher as ground of re-

moval or discharge. 81 ALR 1033; 118 ALR 1092.

Candidacy for or incumbency of public office or other political activity by teacher or other school employee as ground for dismissal or compulsory leave of absence. 136 ALR 1154.

§ 14.20.175 COMPILED SCHOOL LAWS OF ALASKA § 14.20.175

Assertion of immunity as ground for discharge of teacher. 44 ALR2d 799.

Notice of intention to discharge teacher, or not to renew contract, sufficiency under statutes requiring such notice. 92 ALR2d 751.

Right to dismiss public school teacher on ground that services are no longer needed. 100 ALR2d 1141.

What constitutes "incompetency" or "inefficiency" as a ground for dismissal or demotion of public school teacher. 4 ALR3d 1090.

Elements and measure of damages in action by schoolteacher for wrongful discharge. 22 ALR3d 1047.

Use of illegal drugs as ground for dismissal of teacher, or denial or cancellation of teacher's certificate. 47 ALR3d 754.

Dismissal of, or disciplinary action against, public school teachers for violation of regulation as to dress or personal appearances of teachers. 58 ALR3d 1227.

Sexual conduct as ground for dismissal of teacher or denial or revocation of teaching certificate. 78 ALR3d 19.

What constitutes "insubordination" as ground for dismissal of public school teacher. 78 ALR3d 83.

Dismissal of public school teacher because of unauthorized absence or tardiness. 78 ALR3d 117.

Sec. 14.20.175. Nonretention. (a) A teacher who has not acquired tenure rights is subject to nonretention for the school year following the expiration of the teacher's contract for any cause which the employer determines to be adequate. However, at the teacher's request, the teacher is entitled to a written statement of the cause for nonretention. The boards of city and borough school districts and regional educational attendance areas shall provide by regulation or bylaw a procedure under which a nonretained teacher may request and receive an informal hearing by the board.

(b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent; or

(4) a necessary reduction of staff occasioned by a decrease in school attendance. (§ 22 ch 98 SLA 1966; am § 1 ch 11 SLA 1968; am § 13 ch 46 SLA 1970; am § 15 ch 124 SLA 1975)

NOTES TO DECISIONS

Section exceeds federal constitutional requirements. — This section in requiring a statement of cause and an opportunity to be heard, exceeds federal constitutional requirements. *Shatting v. Dillingham City School Dist.*, Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Discretion of school boards. — 4 AAC 19.010, which provides that formal evaluations shall serve as a method for gathering data relevant to subsequent employment status decisions pertaining to the person evaluated, cannot operate to limit the broad discretion that was intentionally given to local school boards by the

legislature, and a school board's decision not to renew the contract of a nontenured teacher may be "for any cause which the employer determines to be adequate." *Shatting v. Dillingham City School Dist.*, Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Despite the broad language of subsection (a), the board's discretion is subject to certain limitations; for example, a school board may not deny continued employment to a teacher because of the teacher's exercise of first amendment rights, nor may a school board deny continued employment to a teacher if to do so would deprive the teacher of other rights that are guaranteed by constitution or statute. *Shatting v. Dillingham City School Dist.*, Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Rights of nonretained, nontenured teachers are limited. — The rights of a nontenured teacher who is simply not retained at the end of his period of employment are relatively limited. A nonretained, nontenured teacher has no constitutionally protected interest in public employment. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973); *Shatting v. Dillingham City School Dist.*, Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Probationary employees who are otherwise lawfully discharged cannot obtain permanent status through grievance procedures which do not purport to modify the statutory provisions concerning tenure and termination of employees. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

The grievance procedure may be of value to a nontenured teacher in at-

tempting to persuade the hiring authority that he should be retained. The process might on occasion bring forth evidence and argument by which the termination of the nontenured teacher might be reconsidered. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

But any such results and action would be a matter within the discretion of the hiring authority, and thereby a matter of grace rather than legal right. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

Nonretention of tenured teacher for substantial noncompliance with district regulations affirmed. — See *Fisher v. Fairbanks N. Star Borough School Dist.*, Sup. Ct. Op. No. 2960 (File No. 7446), 704 P.2d 213 (1985).

Submission of alleged breach of collective bargaining agreement to arbitration. — Where procedures concerning the nonretention of teachers are negotiated by a school district and a teachers' union and are included within a collective bargaining agreement, a nontenured teacher who is not retained by the school district can submit an alleged breach of the collective bargaining agreement to arbitration, though the arbitrator's latitude in fashioning an appropriate remedy is restricted by the language of subsection (a). *Jones v. Wrangell School Dist.*, Sup. Ct. Op. No. 2917 (File No. S-223/S-224), 696 P.2d 677 (1985).

Quoted in *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File No. 2241, 2250), 538 P.2d 994 (1975); *Jerrel v. Kenai Peninsula Borough School Dist.*, Sup. Ct. Op. No. 1458 (File No. 2901), 567 P.2d 760 (1977).

Collateral references. — Right to dismiss public school teacher on ground that services are no longer needed. 100 ALR2d 1141.

Sec. 14.20.180. Procedure and hearing upon notice of dismissal or nonretention. (a) An employer shall include in a notification of dismissal of a teacher who has not acquired tenure rights, or of nonretention or dismissal of a tenured teacher, a statement of cause and a complete bill of particulars.

(b) The tenured teacher may, within 15 days immediately following receipt of the notification, notify the employer in writing that a hearing before the school board is requested. The tenured teacher may

require in the notification that the hearing be either public or private and that the hearing be under oath or affirmation. The notification may also require that the right of cross-examination be provided and that the tenured teacher be represented by counsel and have the right to subpoena a person who has made allegations which are used as a basis for the decision of the employer.

(c) Upon receipt of the notification requesting a hearing, the employer shall immediately arrange for a hearing, and shall notify the tenured teacher or administrator in writing of the date, time, and place of the hearing. A written transcript, tape, or similar recording of the proceedings shall be kept. Transcribed copies shall be furnished to the tenured teacher for cost upon request of the tenured teacher. A final decision of the school board requires a majority vote of the membership. The vote shall be by roll call. The final decision shall be written and contain specific findings of fact and conclusions of law. A written notification of the decision shall be furnished to the tenured teacher within 10 days of the date of the decision. (§ 3a ch 92 SLA 1960; am § 23 ch 98 SLA 1966; am §§ 2, 3 ch 11 SLA 1968; am § 14 ch 46 SLA 1970; am §§ 16, 17 ch 124 SLA 1975)

NOTES TO DECISIONS

Section describes procedure. — This section describes the administrative procedure, which includes a hearing, when a tenured teacher has been given a notice of dismissal or nonretention. *Corso v. Commissioner of Educ.*, Sup. Ct. Op. No. 1412 (File No. 2870), 563 P.2d 246 (1977).

Reference to section in AS 14.20.170 does not extend hearing rights to nontenured teachers. — The reference to this section in AS 14.20.170 cannot reasonably be interpreted to extend the hearing rights given to tenured teachers under this section to nontenured teachers. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

But constitutional due process requirements overcome any statutory rule. — Even though a hearing is not accorded to nontenured teachers by statute, the constitutional requirements of due process overcome any statutory rule. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

And nontenured teachers are entitled to hearing upon dismissal. — Where a mid-year dismissal is at issue, clearly the teachers have been deprived of an interest in property, namely, their present teaching post. This is an interest protected by the 14th amendment to the United States Constitution and by the

first article of the Alaska Constitution, and thus they are entitled to a hearing. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

When dismissal effective. — The "notification of dismissal" is a notice that the board has voted in favor of dismissal, but the dismissal cannot be effective until the teacher has had an opportunity to request a hearing if one is desired. *Kenai Peninsula Borough Bd. of Educ. v. Brown*, Sup. Ct. Op. No. 2886 (File No. 7763), 691 P.2d 1034 (1984).

Since this section gives the teacher 15 days in which to request a hearing, the termination is not effective until at least 15 days following the notification of dismissal. *Kenai Peninsula Borough Bd. of Educ. v. Brown*, Sup. Ct. Op. No. 2886 (File No. 7763), 691 P.2d 1034 (1984).

If the teacher does not request a hearing, the dismissal becomes effective immediately following the expiration of the 15 day period; if the teacher does request a hearing, the dismissal can only be effective after a final majority vote following the hearing. *Kenai Peninsula Borough Bd. of Educ. v. Brown*, Sup. Ct. Op. No. 2886 (File No. 7763), 691 P.2d 1034 (1984).

Meeting resulted in a dismissal prior to a hearing in violation of teacher's due pro-

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cess rights where the teacher was notified that the Board of Education had approved a recommendation for his immediate dismissal and that his pay was terminated effective the day of the meeting, and he was told that he could request a hearing, but the dismissal was nonetheless effective prior to the hearing. *Kenai Peninsula Borough Bd. of Educ. v. Brown*, Sup. Ct. Op. No. 2886 (File No. 7763), 691 P.2d 1034 (1984).

A hearing is the procedure most likely to lead to a fair determination regarding the dismissal of a nontenured teacher. The stigma which attaches to a discharge for incompetence is sufficiently injurious to call for this type of safeguard. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

A full judicial hearing is not necessary, but a hearing that allows the administrative authority to examine both sides of the controversy will protect the interests and rights of all who are involved. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

But nontenured teachers must be given opportunity to present defense by testimony. *Nichols v. Eckert*, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

Hearing complied with section and teacher's due process rights. — See *Kenai Peninsula Borough Bd. of Educ. v. Brown*, Sup. Ct. Op. No. 2886 (File No. 7763), 691 P.2d 1034 (1984).

When time for appeal begins to run. — In light of the provision in subsection (c) of this section that the final decision of the school board must be "written and contain specific findings of fact and conclusions of law," the time for appeal from the board's determination did not begin to run until the written decision was mailed or delivered to the teacher. *Jerrel v. Kenai Peninsula Borough School Dist.*, Sup. Ct. Op. No. 1458 (File No. 2901), 567 P.2d 760 (1977).

Applied in *Renfroe v. Green*, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Collateral references. — Request for hearing, sufficiency under statute requiring hearing on request before discharge. 89 ALR2d 1018.

Sufficiency of notice of intention to discharge teacher or not to renew contract

under statutes requiring such notice. 92 ALR2d 751.

Elements and measure of damages in action by schoolteacher for wrongful discharge. 22 ALR3d 1047.

Secs. 14.20.185 — 14.20.200. Procedure and hearing; appeals. [Repealed, § 59 ch 98 SLA 1966.]

Sec. 14.20.205. Judicial review. If a school board reaches a decision unfavorable to a teacher, the teacher is entitled to a de novo trial in the superior court. However, a teacher who has not attained tenure rights is not entitled to judicial review according to this section. (§ 24 ch 98 SLA 1966; am § 1 ch 148 SLA 1966; am § 4 ch 11 SLA 1968; am § 18 ch 124 SLA 1975)

NOTES TO DECISIONS

This section, granting a trial de novo to teachers, does not violate the separation of powers. *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

On its face, this section bears no relation to the general provisions governing judicial appeals, which is covered by Title 22. *Matanuska-Susitna Bor-*

ough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

AS 22.10.020 does not supersede this section. — AS 22.10.020, which provided in § 17(1), ch. 50, SLA 1969, that "All hearings on appeal from any final order or judgment of a subordinate court or administrative agency shall be on the record unless the superior court, in its discretion, shall grant a trial de novo, in whole or in

part," does not supersede this section, which expressly mandates de novo reviews for tenured teachers. *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

In reenacting AS 22.10.020 in 1970 the legislature has not unequivocally expressed any intent to deny tenured teachers de novo review nor was the reenactment part of a comprehensive revision. *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

Since this section and AS 22.10.020 are not irreconcilably conflicting, but can be intelligently read as conterminous expressions of a general rule and an exception to it, nothing in the edicts of statutory construction requires us to find that this section has been rendered inoperative by the reenactment of AS 22.10.020. *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

A policy factor militating in favor of a full application of this section is that a tenured teacher against whose favor a decision has been reached is faced with the loss of a very important right: his source of income. In this connection, it is not necessary to indulge in such classificatory labels as "vested right" or "property right," for it is enough that the right be recognized as important for it to act as a guide to decision in the interpretation of this section. *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

Rights of nonretained, nontenured teachers are limited. — The rights of a nontenured teacher who is simply not retained at the end of his period of employment are relatively limited because such a teacher has no constitutionally protected interest in public employment. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

Probationary employees who are otherwise lawfully discharged cannot obtain permanent status through grievance procedures which do not purport to modify the statutory provisions concerning tenure and termination of employees. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

The grievance procedure may be of value to a nontenured teacher in at-

tempting to persuade the hiring authority that he should be retained. The process might on occasion bring forth evidence and argument by which the termination of the nontenured teacher might be reconsidered. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

But any such results and action would be a matter within the discretion of the hiring authority, and thereby a matter of grace rather than legal right. *Gorder v. Matanuska-Susitna Borough School Dist.*, Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

Right of nontenured teacher to judicial review. — While this section does not extend the tenured teacher's right to a trial de novo to a nontenured teacher, neither does it preclude a more limited form of judicial review of the school board decision; therefore a nontenured teacher has a right to judicial review, on the record, of a school board's nonretention, and although a review on the record is all that is required, in its discretion the superior court may grant a trial de novo. *Shatting v. Dillingham City School Dist.*, Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Courts granted fact-finding role. — While courts normally feel constrained to defer to the fact-finding role which the legislature has given to a particular agency, no such constraint logically should exist where the legislature itself has granted the courts a fact-finding role in their review of administrative action. This section seemingly does just that, for it expressly grants a tenured teacher a "trial de novo" following an unfavorable school board decision. *Matanuska-Susitna Borough v. Lum*, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

When time for appeal begins to run. — In light of the provision in AS 14.20.180(c) that the final decision of the school board must be "written and contain specific findings of fact and conclusions of law," the time for appeal from the board's determination did not begin to run until the written decision was mailed or delivered to the teacher. *Jerrel v. Kenai Peninsula Borough School Dist.*, Sup. Ct. Op. No. 1458 (File No. 2901), 567 P.2d 760 (1977).

Applied in *Renfro v. Green*, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980); *Jones v. Wrangell*

§ 14.20.207 COMPILED SCHOOL LAWS OF ALASKA § 14.20.215

School Dist., Sup. Ct. Op. No. 2917 (File No. S-223/S-224), 696 P.2d 677 (1985).

Quoted in *Sjong v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2269 (File No. 4255), 622 P.2d 967 (1981); *Fedpac Int'l, Inc. v.*

State, Sup. Ct. Op. No. 2520 (File No. 6034), 646 P.2d 240 (1982); *Fisher v. Fairbanks N. Star Borough School Dist.*, Sup. Ct. Op. No. 2960 (File No. 7446), 704 P.2d 213 (1985).

Sec. 14.20.207. [Renumbered as AS 14.20.215.]

Sec. 14.20.210. Authority of school board or department to adopt bylaws. A school board or the department may adopt teacher tenure bylaws not in conflict with the regulations of the department or state law. (§ 4 ch 92 SLA 1960; am § 26 ch 98 SLA 1966)

Sec. 14.20.215. Definitions. In AS 14.20.010 — 14.20.215

(1) "continuous employment" means employment which is without interruption except for temporary absences approved by the employer or its designee, or except for the interval between consecutive school terms if the teacher is employed only for the months of the school term;

(2) "dismissal" means termination by the employer of the contract services of the teacher during the time a teacher's contract is in force, and termination of the right to the balance of the compensation due the teacher under the contract;

(3) "employer" means the school board or superintendent which appoints the teacher;

(4) "nonretention" means the election by an employer not to re-employ a teacher for the school year or school term immediately following the expiration of the teacher's current contract;

(5) "school year" includes "school term" if the teacher is employed only for the period of the school term; and

(6) "teacher" means a person serving in a teaching, counseling, or administrative capacity and required to be certificated in order to hold the position. (§ 25 ch 98 SLA 1966; am § 15 ch 46 SLA 1970; am § 19, ch 124 SLA 1975)

Revisor's notes. — Formerly AS 14.20.207. Renumbered and reorganized to alphabetize the defined terms in 1987.

NOTES TO DECISIONS

Applied in *Griffin v. Galena City School Dist.*, Sup. Ct. Op. No. 2469 (File No. 5388), 640 P.2d 829 (1982).

Quoted in *Bagich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968); *State v. Redman*, Sup. Ct. Op. No. 786 (File No. 1431), 491 P.2d 157 (1971); *Shatting v. Dillingham City School Dist.*,

Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Cited in *Alaska State-Operated School Sys. v. Mueller*, Sup. Ct. Op. No. 1157 (File No. 2138), 536 P.2d 99 (1975); *Skagway City School Bd. v. Davis*, Sup. Ct. Op. No. 1216 (File No. 2385), 543 P.2d 218 (1975); *Northwest Arctic Regional*

§ 14.20.220 COMPILED SCHOOL LAWS OF ALASKA § 14.20.220

Educ. Attendance Area v. Alaska Op. No. 1811 (File Nos. 3360, 3362), 591
Pub.Serv. Employees, Local 71, Sup. Ct. P.2d 1292 (1979).

Collateral references. — Who is
"teacher" for purposes of tenure statutes.
94 ALR3d 141.

Article 3. Salary Scales.

Section

220. School experience for salary scales

Collateral references. — 68 Am. Jur.
2d Schools, §§ 144-148.
78 C.J.S. Schools and School Districts,
§§ 218-230.

Right of teacher to compensation while
school is closed. 6 ALR 742; 17 ALR 1224;
21 ALR 741.

Discrimination because of race, color, or
creed in respect of appointment, duties,
compensation, etc., of schoolteachers or
other public officers or employees. 130
ALR 1512.

Validity of classification or grading of

teachers for purposes of compensation.
133 ALR 1437.

Compensation of tenure teacher. 145
ALR 408; 154 ALR 148.

Construction and application of provi-
sion of social security or unemployment
compensation acts relating to exemption
of corporations or institutions of a reli-
gious, charitable, or educational charac-
ter. 165 ALR 369.

Services included in computing period
of service for purpose of. 2 ALR2d 1033.

Sec. 14.20.220. School experience for salary scales. (a) *[Repealed, § 52 ch 6 SLA 1984.]*

(b) *[Repealed, § 52 ch 6 SLA 1984.]*

(c) *[Repealed, § 52 ch 6 SLA 1984.]*

(d) *[Repealed, § 35 ch 46 SLA 1970.]*

(e) For teachers holding bachelors' degrees, not more than six years of school experience outside the state may be substituted for a like period of school experience in the state when a teacher's position on the salary scale is established, and, for teachers holding masters' degrees, not more than eight years of school experience outside the state may be substituted for a like period of school experience in the state when a teacher's position on the salary scale is established.

(f) *[Repealed, § 23 ch 37 SLA 1986.]*

(g) In this section "school experience" means a full-time elementary or secondary teacher in a public or non-public school as defined in AS 14.25.220. (§ 37-6-1 ACLA 1949; am § 1 ch 69 SLA 1949; am § 1 ch 104 SLA 1951; am § 1 ch 104 SLA 1953; am § 1 ch 176 SLA 1955; am § 1 ch 179 SLA 1957; am § 1 ch 51 SLA 1961; am § 1 ch 54 SLA 1963; am § 1 ch 160 SLA 1966; am §§ 1 — 3 ch 208 SLA 1968; am §§ 1, 2 ch 209 SLA 1968; am §§ 16, 35 ch 46 SLA 1970; am § 1 ch 229 SLA 1970; am § 52 ch 6 SLA 1984; am § 23 ch 37 SLA 1986)

§ 14.20.230 COMPILED SCHOOL LAWS OF ALASKA § 14.20.280

Effect of amendments. — The 1984 amendment repealed former subsections (a)-(c), relating to base salaries of teachers.

The 1986 amendment repealed subsection (f), relating to the salary for a certificated substitute teacher teaching in a public school.

NOTES TO DECISIONS

Cited in *Griffin v. Galena City School Dist.*, Sup. Ct. Op. No. 2469 (File No. 5388), 640 P.2d 829 (1982).

Sec. 14.20.230. Administrators' salaries. [Repealed, § 52 ch 6 SLA 1984.]

Secs. 14.20.240 — 14.20.270. Salaries; reimbursement by state to school districts; limitation on higher salaries not prohibited; determination of number of teachers, superintendents, principals and vice principals for which district entitled to reimbursement. [Repealed, § 6 ch 229 SLA 1970.]

Sec. 14.20.275. Definitions. [Repealed, § 52 ch 6 SLA 1984.]

Article 4. Sabbatical Leave.

Section	Section
280. Basis of leave	330. Position, tenure, and retirement
290. Application	340. Military service and previous leaves of absence
300. Selection of teachers	345. Leave of absence without pay
310. Amount of sabbatical leave and compensation	350. Definition
320. Responsibility of teacher	

Collateral references. — 68 Am. Jur. 2d Schools § 147. 78 C.J.S. Schools and School Districts, § 227.

Sec. 14.20.280. Basis of leave. A teacher who has rendered active service for seven or more years in a district is eligible for sabbatical leave. Sabbatical leave may be taken for educational purposes only, and for not more than one school year. (§ 1 ch 134 SLA 1962; am § 1 ch 62 SLA 1964; am § 2 ch 104 SLA 1965; am § 27 ch 98 SLA 1966; am § 1 ch 168 SLA 1968)

Collateral references. — Candidacy for or incumbency of public office or other political activity by teacher or other school employee as ground for dismissal or compulsory leave of absence. 136 ALR 1154.

Sec. 14.20.290. Application. A teacher who wishes to take sabbatical leave shall apply to the governing body of the school district. The teacher shall submit information showing qualifications for sabbatical leave and a plan for education during the leave. (§ 2 ch 134 SLA 1962; am § 28 ch 98 SLA 1966)

Sec. 14.20.300. Selection of teachers. (a) The governing body of the school district has the responsibility for selection of the teachers to be granted sabbatical leave.

(b) In selecting teachers for sabbatical leave, the governing body shall consider the benefit which the school district will derive from the proposed plan of the teacher for educational purposes, the field of study of the teacher, the contributions of the teacher to education in the state, and the seniority of the teacher. (§ 3 ch 134 SLA 1962; am § 29 ch 98 SLA 1966)

Sec. 14.20.310. Amount of sabbatical leave and compensation. (a) The number of teachers eligible for sabbatical leave which may be allowed under AS 14.20.280 — 14.20.350 is as follows:

(1) not more than one-half of one percent of the total number of teachers from all borough and city school districts and regional education attendance areas may be on state-supported sabbatical leave in any year;

(2) any number of teachers may be on sabbatical leave at school district or personal expense.

(b) A teacher on state-supported sabbatical leave is entitled to one-half of base salary to be paid by the department.

(c) A teacher on sabbatical leave at district expense is entitled to an amount of salary to be determined by the school board. (§ 4 ch 134 SLA 1962; am § 3 ch 104 SLA 1965; am § 30 ch 98 SLA 1966; am § 2 ch 168 SLA 1968; am § 53 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "regional educational attendance areas" for "the state-operated school district" in paragraph (1) of subsection (a).

Sec. 14.20.320. Responsibility of teacher. Upon the return of a teacher to the teaching position, the teacher shall make a report to the governing body concerning educational accomplishments. A teacher who does not serve for at least a full year after returning shall refund to the school board money paid to the teacher under AS 14.20.310 unless the failure to serve a full year after return is attributable to sickness, injury or death. (§ 5 ch 134 SLA 1962; am § 4 ch 104 SLA 1965; am § 31 ch 98 SLA 1966; am § 20 ch 46 SLA 1970; am § 54 ch 6 SLA 1984)

§ 14.20.330 COMPILED SCHOOL LAWS OF ALASKA § 14.20.345

Effect of amendments. — The 1984 amendment substituted "school board" for "district, if the sabbatical leave was at district expense, or to the board of state-operated schools, if the sabbatical leave was state-supported" in the second sentence.

Sec. 14.20.330. Position, tenure, and retirement. (a) Unless it is otherwise agreed, a teacher returning from sabbatical leave shall return to the position occupied by that teacher when the sabbatical leave began.

(b) A sabbatical leave is not an interruption of the continuous service necessary to attain or retain tenure under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on sabbatical leave may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire tenure rights.

(c) A sabbatical leave is not a break in service for retirement purposes. Payment into the retirement fund shall be made on the basis of full salary. (§ 6 ch 134 SLA 1962; am § 32 ch 98 SLA 1966)

Sec. 14.20.340. Military service and previous leaves of absence. To determine eligibility for sabbatical leave, tours of military service and leaves of absence granted before July 1, 1963, are not considered years of active service. (§ 7 ch 134 SLA 1962; am § 2 ch 62 SLA 1964)

Sec. 14.20.345. Leave of absence without pay. (a) A teacher may be granted a leave of absence without pay for the purposes which may be approved by the governing body of the district if

(1) the teacher's application is approved by the governing body of the district; and

(2) the teacher agrees to return to employment in a public school not later than the beginning of the school year following termination of the period for which the leave of absence was granted.

(b) A leave of absence is not an interruption of the continuous service necessary to attain or retain retirement or tenure rights under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on leave of absence may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire retirement or tenure rights.

(c) The leave of absence is not a break in service for retirement purposes.

(d) The governing body of the district may agree to continue the teacher's retirement contributions if the teacher agrees to pay the required seven per cent of the salary the teacher would have received during the leave of absence and reimburse the district for the district's required retirement contribution. Each year of leave of absence then would count as a year of retirement service.

(e) The governing body of the district may advance the teacher on the district salary schedule when the teacher returns to employment if the governing body determines that the teacher's leave of absence was educationally or professionally beneficial to the teacher or the district.

(f) A teacher may make contributions to the retirement fund for each year or portion of a year of leave of absence taken. The contribution shall include the required per cent of the salary the teacher would have received had the leave of absence not been taken, plus the required employer and state contributions that would have been made. Compound interest at the rate prescribed by regulation shall be added as computed from the beginning date of the leave of absence to the date the teacher pays the contribution. (§ 5 ch 104 SLA 1965; am §§ 33, 34 ch 98 SLA 1966; am § 1 ch 44 SLA 1971; am § 1 ch 184 SLA 1972; am § 2 ch 99 SLA 1974)

Sec. 14.20.350. Definition. In AS 14.20.280 — 14.20.350 "teacher" means a certificated member of the teaching, supervisory, or administrative corps in the public schools of the state. (§ 8 ch 134 SLA 1962)

Article 5. Professional Teaching Practices Act.

Section

370. Teaching profession
380. Creation of a commission
390. Appointment and qualifications
400. Composition of the commission
410. Selection of members
420. Term of office
430. Dismissal
440. Reimbursement

Section

450. Responsibilities of commission
460. Duties of commission
470. Powers of commission
475. Applicability of the Administrative Procedure Act
480. Effect of standards
500. Support
510. Short title

Sec. 14.20.370. Teaching profession. Teachers required by state law to be certificated, instructors in institutions of higher learning, school administrators, school program administrators, and school counselors are within the teaching profession. (§ 35 ch 98 SLA 1966)

Opinions of attorney general. — Unless the duties of an employee of the department of education can be characterized as falling within one of the five categories of this section, that employee cannot be said to fall within the teaching profession for purposes of the Professional Teaching Practices Act. July 15, 1977 Op. Att'y Gen.

The only employees of the department of education who might fit into one of the categories of this section are those who are employed by the department at the Alaska Skill Center or in its centralized correspondence study program. July 15, 1977 Op. Att'y Gen.

Sec. 14.20.380. Creation of a commission. There is a commission of professional educators known as the Professional Teaching Practices Commission. (§ 35 ch 98 SLA 1966)

Sec. 14.20.390. Appointment and qualifications. The commission consists of nine members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. Each member, in addition to having been actively engaged in the teaching profession for at least five years immediately preceding appointment, shall be a citizen of the United States and a resident of the state. (§ 35 ch 98 SLA 1966)

Collateral references. — Bias of members of license revocation board. 97 ALR2d 1210.

Sec. 14.20.400. Composition of the commission. The commission consists of the following members:

- (1) five classroom teachers;
 - (2) one principal;
 - (3) one superintendent;
 - (4) one representative of the office of the commissioner;
 - (5) one representative of an Alaska institution of higher learning.
- (§ 35 ch 98 SLA 1966)

Sec. 14.20.410. Selection of members. (a) Members of the commission shall be selected as follows:

- (1) the five classroom teachers from lists of names submitted by recognized Alaska teachers' organizations, each list not to exceed 12 names; however, in lieu of one of the five, one classroom teacher may be selected from a list of not more than four names signed and submitted by not less than 25 teachers who have no affiliation with any organization qualified to submit nomination lists, with the limitation that no teacher may sign more than one list in any year;
- (2) the principal from a list of three names submitted by the Alaska Principals Association;
- (3) the superintendent from a list of three names submitted by the Superintendents Advisory Commission;
- (4) the representative of the office of the commissioner from a list of three names submitted by the commissioner;
- (5) the representative of an Alaska institution of higher learning from lists of names submitted by Alaska institutions of higher learning, each list not to exceed three names.

(b) The lists shall be submitted to the commissioner who shall submit them as a group to the governor's office.

(c) At least 30 days before a position on the commission is due to become vacant, the chairman shall cause notice of the impending va-

cancy to be published and to be conveyed to each organized group eligible to submit a list of nominees. (§ 35 ch 98 SLA 1966)

Sec. 14.20.420. Term of office. (a) The term of office for each member of the commission is three years and until a successor is appointed.

(b) Vacancies shall be filled by appointment by the governor for the unexpired term.

(c) An individual may not serve more than a total of two 3-year terms.

(d) The commission shall select a chairman from among its members. (§ 35 ch 98 SLA 1966; am § 23 ch 14 SLA 1987)

Effect of amendment. — The 1987 amendment following "appointed" in subsection (a) deleted "except that members of the first commission shall be appointed as follows: three members for one year,

three members for two years, and three members for three years. Members of the first commission shall draw by lot for the initial term of appointment."

Sec. 14.20.430. Dismissal. Any member may be removed by the governor for misconduct, malfeasance or nonfeasance in office, or incapacity. (§ 35 ch 98 SLA 1966)

Sec. 14.20.440. Reimbursement. Members of the commission shall receive per diem according to law and are to be granted administrative leave with full pay by their employer for time spent in the performance of official duties under AS 14.20.370 — 14.20.510. If a member is required to spend more than 15 days in a fiscal year in the performance of official duties under AS 14.20.370 — 14.20.510, the state shall reimburse the employer for costs incurred after the 15th day. (§ 35 ch 98 SLA 1966; am § 1 ch 4 SLA 1975)

Sec. 14.20.450. Responsibilities of commission. The commission shall have the initial responsibility of developing, through the teaching profession, criteria of professional practices in areas including, but not limited to:

- (1) ethical and professional performance;
- (2) preparation for and continuance in professional services; and
- (3) contractual obligations. (§ 35 ch 98 SLA 1966)

Sec. 14.20.460. Duties of commission. The commission shall

- (1) establish procedures, and adopt regulations to implement the purposes of AS 14.20.370 — 14.20.510;
- (2) conduct investigations and hearings on alleged violations of ethical or professional teaching performance, contractual obligations, and professional teaching misconduct;

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(3) review the regulations of the department as they relate to teacher certification and recommend necessary changes;

(4) review the decisions of the department regarding the issuance or denial of certificates and in its discretion recommend reversal of decisions. (§ 35 ch 98 SLA 1966)

Sec. 14.20.470. Powers of commission. (a) The commission may

(1) study proposals developed by regular committees of any existing professional organization whose members are within the teaching profession;

(2) subpoena witnesses, place them under oath, and maintain written records;

(3) warn or reprimand members of the teaching profession, if in the judgment of the commission such action is warranted;

(4) suspend or revoke the certificate of a member of the teaching profession for one of the reasons set out in AS 14.20.030 except that in the case of an administrator, the commissioner must concur;

(5) make any recommendation to the board or to school boards which will promote an improvement in the teaching profession;

(6) request assistance through any of the investigative processes of any existing professional teaching organizations when analyzing charges of breach of ethical or professional teaching practices;

(7) appoint an executive secretary, delegate those ministerial functions to executive secretary as the commission may decide and set executive secretary's compensation with a starting salary not exceeding range 26, step B of the pay plan for state employees in AS 39.27.011(a).

(b) A decision issued by the commission with the approval of the commissioner under (a) (4) of this section is final. (§ 35 ch 98 SLA 1966; am § 1 ch 77 SLA 1972; am §§ 3, 4 ch 9 SLA 1975; am § 2 ch 103 SLA 1976; am § 13 ch 94 SLA 1980)

Sec. 14.20.475. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to regulations and proceedings under AS 14.20.370 — 14.20.510. (§ 5 ch 9 SLA 1975)

Sec. 14.20.480. Effect of standards. Members of the teaching profession are obligated to abide by the professional teaching standards adopted by the commission. (§ 35 ch 98 SLA 1966)

NOTES TO DECISIONS

Applied in *Renfroe v. Green*, Sup. Ct.
Op. No. 2233 (File Nos. 4394, 4481), 626
P.2d 1068 (1980).

§ 14.20.500 COMPILED SCHOOL LAWS OF ALASKA § 14.20.550

Sec. 14.20.500. Support. In addition to available state funds, the commission shall also be financed by members of the profession in accordance with regulations adopted by the department including, if necessary, an increase in the fees for certificates. (§ 35 ch 98 SLA 1966; am § 1 ch 73 SLA 1973)

Sec. 14.20.510. Short title. AS 14.20.370 — 14.20.510 shall be known as the Professional Teaching Practices Act. (§ 35 ch 98 SLA 1966)

Article 6. Negotiation and Mediation.

Section	Section
550. Negotiation with employees	570. Mediation
555. Optional coordinated employee negotiations	580. The mediation report
560. Bargaining groups and meetings with the groups	590. Grievance procedures
	600. Individual cases
	610. Legal responsibilities of boards

Opinions of attorney general. — While these provisions waive the state's sovereign immunity and that of its political subdivisions from having to bargain collectively with teachers in the public schools, they do not address, expressly or even impliedly, any right to strike the part of teachers of school districts. May 19, 1977 Op. Att'y Gen.

Teachers of school districts do not presently have the right to strike because the state has not waived its or its political subdivisions' immunity from strikes by teachers. May 19, 1977 Op. Att'y Gen.

Collateral references. — 48A Am. Jur. 2d Labor and Labor Relations, §§ 1727-1775.

51A C.J.S. Labor Relations, § 402.
Right of school authorities to make membership or nonmembership in teachers' association or other organization a condition of employment as a teacher. 72 ALR 1226.

Bargainable or negotiable issues in state public employment labor relations. 84 ALR3d 242.

Union security arrangements in state public employment. 96 ALR3d 1102.

Sec. 14.20.550. Negotiation with employees. A school board shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. A school board shall negotiate in good faith with its noncertificated employees on matters of wages, hours, and other terms and conditions of employment. (§ 1 ch 18 SLA 1970; am § 3 ch 71 SLA 1972; am § 21 ch 124 SLA 1975; am § 1 ch 95 SLA 1988)

NOTES TO DECISIONS

Constitutionality. — This section and AS 14.20.610 state two goals which apparently conflict, but since the supreme court construes this section fairly narrowly, it finds no constitutional infirmity in this section and AS 14.20.610. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537

(File Nos. 2470, 2492, 2563), 672 P.2d 416 (1977).

Requirements of section. — This section merely requires a school board to negotiate with a union. It does not require a board to accept any particular proposal a union might offer. It does not require, and probably does not permit, a board to dele-

gate to a union the sole power to make any decision. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

As to matters which affect educational policy and are, therefore, not negotiable, there is nevertheless implicit in the Alaska Statutes the intention that the school boards meet and confer with the unions. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Negotiable items. — Salaries, fringe benefits, the number of hours worked, and the amount of leave time are negotiable. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

The salary of teachers is a proper subject of collective bargaining under Alaska's statutes. *Rouse v. Anchorage School Dist.*, Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Nonnegotiable items. — Such items as (1) relief from nonprofessional chores, (2) elementary planning time, (3) paraprofessional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-

teacher ratio, (8) a teacher ombudsman, (9) teacher evaluation of administrators, (10) school calendar, (11) selection of instructional materials, (12) the use of secondary department heads, (13) secondary teacher preparation and planning time, and (14) teacher representation on school board advisory committees are, under the existing statutory language, nonnegotiable. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Dismissal of complaint held proper. — Change in teachers' salaries brought about by contract renegotiation did not abuse any "vested" rights entitled to judicial protection, and dismissal of the complaint for failure to state a claim for which relief could be granted was proper. *Rouse v. Anchorage School Dist.*, Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Cited in *Anchorage Educ. Ass'n v. Anchorage School Dist.*, Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982); *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 689 P.2d 1299 (1983).

Sec. 14.20.555. Optional coordinated employee negotiations.

(a) Negotiations between the certificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the certificated employees, one team representing all the certificated administrative personnel if they have joined together to negotiate independently as provided in AS 14.20.560(f), and one team representing all the participating regional school boards.

(b) Each team may consist of as many members as there are regional school boards. Each board is entitled to one member on the team. However, each negotiating team shall consist of not less than five members.

(c) A regional educational attendance area board may by resolution choose to conduct its own negotiations in accordance with AS 14.20.550.

(d) Negotiations between the noncertificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the noncertificated employees and one team representing all the participating regional school boards. The provisions of (b) and (c) of this section apply to these negotiations. (§ 22 ch 124 SLA 1975; am § 2 ch 95 SLA 1988)

Effect of amendments. — The 1988 amendment added subsection (d).

NOTES TO DECISIONS

Cited in *Anchorage Educ. Ass'n v. Anchorage School Dist.*, Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 983 (1982).

Sec. 14.20.560. Bargaining groups and meetings with the groups. (a) When a majority of the certificated employees in a school district have designated an educational organization of their own choosing to bargain for them, the organization shall be recognized by the school board as the bargaining agent for all the certificated staff, except superintendents of schools. The membership of a recognized educational organization shall be composed principally of those employed in the teaching profession in Alaska. When a majority of the noncertificated employees in a school district have designated an employee bargaining organization to bargain for them, the school board shall recognize it as the bargaining agent for all of the noncertificated employees.

(b) The organization representing a majority of the certificated or noncertificated employees of a school district shall, upon the request of the school board, submit an affidavit verifying that it does represent a majority of those employees. Recognition of the employee bargaining agency by a school board is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of those eligible to vote on the question votes to request the termination of recognition of the employee bargaining agency. The school board is entitled to an affidavit of membership from the employee bargaining agency once each year.

(c) Upon the request of 25 per cent of the certificated or noncertificated employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated employees in order to determine their choice of a bargaining agency. The results of this election are binding for one year.

(d) A school board shall, upon the written request of the employee bargaining organization, meet with the representative of the organization within 20 days of the request at a time and place to be mutually agreed upon. In the same manner, representatives of an employee bargaining organization are required to meet with a school board or its representatives within 20 days after receiving a written request. The school board and the employee organization may not select more than five representatives each to negotiate for them.

(e) The negotiating meeting may be held in executive session upon mutual agreement of both parties, but all final agreements shall be made at a public meeting of the school board.

(f) Nothing in this section shall be construed to prevent certificated administrative personnel groups, including principals and assistant principals, from having the right to negotiate independently of the other certificated personnel if they choose to do so as the result of a secret ballot. (§ 1 ch 18 SLA 1970; am § 1 ch 43 SLA 1971; am §§ 3 — 5 ch 95 SLA 1988)

Effect of amendments. — The 1988 amendment, in subsection (a), substituted "a recognized" for "any such recognized" in the second sentence and added the third sentence; in subsection (b), inserted "or noncertificated" in the first sentence, and substituted "those employees" for "the certificated employee" in the first sentence and "those eligible to vote on the question" for "certified staff" in the second sentence; and inserted "or noncertifi-

cated" twice in the first sentence in subsection (c).

Editor's notes. — Section 8, ch. 95, SLA 1988, provides: "Notwithstanding the amendments made to AS 14.20.560 by secs. 3 — 5 of this Act, a bargaining unit that exists on September 1, 1988 may continue to exist unless the members of the unit vote by secret ballot to decertify the bargaining agent or to join with another bargaining unit in the school district."

NOTES TO DECISIONS

Negotiable items. — The salary of teachers is a proper subject of collective bargaining under Alaska's statutes. *Rouse v. Anchorage School Dist.*, Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Dismissal of complaint held proper. — Change in teachers' salaries brought about by contract renegotiation did not abuse any "vested" rights entitled to judicial protection, and dismissal of the complaint for failure to state a claim for which

Sec. 14.20.570. Mediation. (a) Upon the written request for mediation by an employee bargaining agency or a school board, and upon certification by the requesting party that the parties cannot agree on an independent private mediator and that good faith negotiations have terminated in an impasse, the following occurs:

(1) Within seven days of the certification the requesting party shall ask the United States Federal Mediation and Conciliation Service to serve as the agency to resolve the dispute.

(2) The mediator shall chair all mediation meetings between the disputing parties and attempt to resolve the differences between the disputing parties and reach common acceptance of terms and conditions or other items in dispute wherever possible.

(3) Within 30 days of the initial meeting of the parties to the dispute the mediator shall have reduced all the agreed terms, conditions and other items to a written contract. If mutually agreed the period for reporting the contract to both parties may be extended.

(4) Each party to the dispute may select a team of not more than five persons to present the evidence, thinking and position of the group they represent, to the mediator.

(b) If the mediation meetings are held during working hours, teachers or noncertificated employees representing an employee bargaining agency shall be released from assigned duties without penalty

or loss of pay. (§ 1 ch 18 SLA 1970; am § 1 ch 201 SLA 1975; am § 6 ch 95 SLA 1988)

Effect of amendments. — The 1988 amendment rewrote subsection (b), which read "If the mediation meetings are held during the school day, teachers represent-

ing an employee bargaining agency shall be released from classroom or other assigned duties without penalty or loss of pay."

Sec. 14.20.580. The mediation report. (a) Within 10 days each party to the dispute shall accept or reject in total the mediation report.

(b) If rejected by either party, the mediator shall have an additional five days to review the objections and prepare a final report.

(c) If the final report is rejected by either side, the governor may appoint an advisory arbitrator to review the issues and make recommendations for solution. (§ 1 ch 18 SLA 1970; am § 2 ch 201 SLA 1975)

Sec. 14.20.590. Grievance procedures. Negotiations agreements must

(1) define "grievances" and provide for grievance procedures for the certificated staff or noncertificated employees; the grievance procedures shall provide that the final step in the procedure shall be binding arbitration; and

(2) provide a method for the selection of an arbitrator. (§ 1 ch 18 SLA 1970; am § 3 ch 201 SLA 1975; am § 7 ch 95 SLA 1988)

Effect of amendments. — The 1988 amendment divided the formerly undivided language into an introductory paragraph and paragraphs (1) and (2); added "must" at the end of the introductory paragraph; in paragraph (1), combined to-

gether the former two sentences, deleted "executed after July 1, 1975 shall" at the beginning, inserted "or noncertificated employees," and added "and" at the end; and deleted "The negotiations agreement shall" at the beginning of paragraph (2).

NOTES TO DECISIONS

Cited in Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Sec. 14.20.600. Individual cases. Nothing in AS 14.20.550 — 14.20.590 prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases. (§ 1 ch 18 SLA 1970)

Sec. 14.20.610. Legal responsibilities of boards. Nothing in AS 14.20.550 — 14.20.600 may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policies. (§ 1 ch 18 SLA 1970)

NOTES TO DECISIONS

Constitutionality. — AS 14.20.550 and this section state two goals which apparently conflict, but since the supreme court construes AS 14.20.550 fairly narrowly, it finds no constitutional infirmity in AS 14.20.550 and this section. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

As to matters which affect educational policy and are, therefore, not negotiable, there is nevertheless implicit in the Alaska Statutes the intention that the school boards meet and confer with the unions. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Negotiable items. — Salaries, fringe benefits, the number of hours worked, and the amount of leave time are negotiable. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op.

No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Nonnegotiable items. — Such items as (1) relief from nonprofessional chores, (2) elementary planning time, (3) paraprofessional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-teacher ratio, (8) a teacher ombudsman, (9) teacher evaluation of administrators, (10) school calendar, (11) selection of instructional materials, (12) the use of secondary department heads, (13) secondary teacher preparation and planning time, and (14) teacher representation on school board advisory committees are, under the existing statutory language, nonnegotiable. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Cited in *Alaska Community Colleges' Fed'n of Teachers Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2729 (File No. 6881), 669 P.2d 1299 (1983).

Article 7. Interstate Agreement on Qualification of Educational Personnel.

Section

620. Entry into agreement
630. Terms and provisions of agreement

Section

640. Designated state official to make contracts
650. Filing and publishing of contracts

Sec. 14.20.630. Entry into agreement. The interstate Agreement on Qualification of Educational Personnel is enacted into law and entered into in behalf of the State of Alaska with all other states and jurisdictions legally joining in it in a form substantially as contained in AS 14.20.630. (§ 1 ch 83 SLA 1970)

Sec. 14.20.630. Terms and provisions of agreement. The terms and provisions of the agreement referred to in AS 14.20.620 are as follows:

**INTERSTATE AGREEMENT ON QUALIFICATION OF
EDUCATIONAL PERSONNEL.**

ARTICLE I. PURPOSE, FINDINGS, AND POLICY.

(1) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

ARTICLE II. DEFINITIONS.

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(1) "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(2) "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of the state, contracts pursuant to this agreement.

(3) "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(4) "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(5) "Originating state" means a state (and the subdivisions thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

(6) "Receiving state" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

ARTICLE III. INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS.

(1) The designated state official of a party state may make one or more contracts on behalf of that state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which the state official finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in the official's state.

(2) Any such contract shall provide for:

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(3) No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(4) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receive-

ing state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(6) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

ARTICLE IV. APPROVED AND ACCEPTED PROGRAMS.

(1) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(2) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

ARTICLE V. INTERSTATE COOPERATION.

The party states agree that:

(1) They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

ARTICLE VI. AGREEMENT EVALUATION.

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

ARTICLE VII. OTHER ARRANGEMENTS.

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

ARTICLE VIII. EFFECT AND WITHDRAWAL.

(1) This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(2) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY.

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters. (§ 1 ch 83 SLA 1970)

Sec. 14.20.640. Designated state official to make contracts. The designated state official to make contracts on behalf of the state under Article III of the agreement shall be the commissioner. (§ 1 ch 83 SLA 1970)

Sec. 14.20.650. Filing and publishing of contracts. True copies of all contracts made on behalf of this state under the agreement shall be kept on file in the office of the commissioner and in the office of the lieutenant governor. The department shall publish all the contracts in convenient form. (§ 1 ch 83 SLA 1970)

Chapter 25. Teachers' Retirement.

Section

- 10. Retirement system established
- 12. Purpose and effective date
- 15. Administrator
- 20. Powers of the administrator
- 22. Regulations
- 30. Duties of the administrator
- 35. Teachers' Retirement Board
- 40. Membership
- 43. Reemployment of retired members
- 45. Participation by National Education Association employees
- 47. Participation by special education service agency employees
- 48. Teachers of Alaska native language and culture
- 50. Contributions by teachers
- 55. Supplemental contributions by teachers
- 60. Arrearage indebtedness
- 61. Retroactive indebtedness
- 62. Reinstatement indebtedness
- 63. Payment of indebtedness
- 65. Transmittal of contributions
- 70. Contributions by employer
- 100. Credit for service in the armed forces
- 105. Credit for service as an employee of the Territory of Alaska
- 107. Credit for Alaska BIA service
- 110. Retirement benefits
- 115. Unused sick leave credit
- 125. Conditional service retirement benefits

Section

- 130. Disability benefits
- 142. Cost of living allowance
- 143. Post retirement pension adjustment
- 145. Interest on individual accounts
- 150. Refund upon termination
- 153. Rights under qualified domestic relations order
- 155. Nonoccupational death benefits
- 157. Occupational death benefits
- 160. Death benefits
- 162. Survivor's allowance
- 164. Spouse's pension
- 165. Designation of beneficiary
- 167. Joint and survivor option
- 168. Medical benefits
- 169. Duplicate benefits
- 170. Administration
- 173. Adjustments
- 175. Waiver of adjustments
- 177. Effect of amendments
- 180. Management and investment of fund
- 190. Actuarial evaluations of the system
- 200. Exemption from taxation and process
- 205. Time limit for application
- 210. Penalty for false statements
- 220. Definitions

Cross references. — For retirement incentive program applicable until the end of fiscal year 1985, see ch. 26, SLA 1986, in the Temporary and Special Acts.
Collateral references. — 60 Am. Jur.

2d Pensions and Retirement Funds, §§ 39-72.
78 C.J.S. Schools and School Districts, §§ 231-236.

Sec. 14.25.010. Retirement system established. A joint-contributory retirement system for teachers of the state is created. (§ 1 ch 145 SLA 1955; am § 1 ch 89 SLA 1960)

Sec. 14.25.012. Purpose and effective date. (a) The purpose of this chapter is to encourage qualified teachers to enter and remain in service with participating employers by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the members.

(b) The system created became effective as of July 1, 1955, at which time contributions by the participating employers and members began. (§ 1 ch 13 SLA 1980)

Sec. 14.25.015. Administrator. The commissioner of administration shall appoint an administrator of the system. (§ 1 ch 13 SLA 1980)

Sec. 14.25.020. Powers of the administrator. (a) The administrator may

(1) formulate and recommend to the Alaska Teachers' Retirement Board regulations to govern the operation of the system;

(2) make expenditures from the retirement fund necessary to administer this chapter.

(b) The administrative expenditures permitted by (a) (2) of this section shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. (§ 4 ch 145 SLA 1955; am § 2 ch 142 SLA 1957; am § 3 ch 89 SLA 1960; am § 1 ch 137 SLA 1982)

Sec. 14.25.022. Regulations. (a) Regulations adopted by the Alaska Teachers' Retirement Board under this chapter relate to the internal management of a state agency and their adoption is not subject to the Administrative Procedure Act (AS 44.62).

(b) Notwithstanding (a) of this section, a regulation adopted under this chapter shall be published in the Alaska Administrative Register and Code for informational purposes. Each regulation adopted under this chapter shall conform to the style and format requirements of the drafting manual for administrative regulations that is published under AS 44.62.050.

(c) At least 30 days before the adoption, amendment, or repeal of a regulation under this chapter, the Alaska Teachers' Retirement Board shall provide notice of the action that is being considered. The notice shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation in each judicial district of the state;

(3) mailed to each person or group that has filed a request for notice of proposed action with the Alaska Teachers' Retirement Board; and

(4) furnished to each member of the legislature and to the Legislative Affairs Agency.

(d) Failure to mail notice to a person as required under (c)(3) of this section does not invalidate an action taken by the Alaska Teachers' Retirement Board.

(e) The Alaska Teachers' Retirement Board may hold a hearing on a proposed regulation.

(f) A regulation adopted under this chapter takes effect 30 days after adoption by the Alaska Teachers' Retirement Board.

(g) Notwithstanding the other provisions of this section, a regulation may be adopted, amended, or repealed, effective immediately, as

an emergency regulation by the unanimous vote of a quorum of the Alaska Teachers' Retirement Board. For an emergency regulation to be effective the Alaska Teachers' Retirement Board must find that the adoption, amendment, or repeal of the regulation is necessary for the immediate preservation of the orderly operation of the system or the business of the Alaska Teachers' Retirement Board. The Alaska Teachers' Retirement Board shall, within 10 days after adoption of an emergency regulation, give notice of the adoption under (c) of this section. An emergency regulation adopted under this subsection may not remain in effect past the date of the next regular meeting of the Alaska Teachers' Retirement Board unless the board complies with the procedures set out in this section and adopts the regulation as a permanent regulation.

(h) In this section "regulation" has the meaning given in AS 44.62.640(a)(2). (§ 1 ch 13 SLA 1963; am § 2 ch 137 SLA 1982; am § 1 ch 35 SLA 1984)

Effect of amendments. — The 1984 amendment added subsections (b)-(h). 44.62.640(a)(2) in subsection (h) should be to AS 44.62.640(a)(3) in light of the 1984 reorganization of that section.
Editor's notes. — The reference to AS

Sec. 14.25.030. Duties of the administrator. The administrator shall

- (1) establish and maintain an adequate system of accounts for the system;
- (2) approve or disapprove claims for retirement benefits;
- (3) serve as secretary of the Alaska Teachers' Retirement Board and keep an official record of all proceedings;
- (4) publish annually a report showing the financial condition of the system; and
- (5) do whatever else may be necessary to carry out the purposes of this chapter. (§ 4 ch 145 SLA 1955; am § 2 ch 142 SLA 1957; am § 3 ch 89 SLA 1960; am § 2 ch 13 SLA 1980; am § 1 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "the system" for "the retirement fund" in paragraphs (1) and (4).

Sec. 14.25.035. Teachers' Retirement Board. (a) There is established the Alaska Teachers' Retirement Board consisting of five members appointed by the governor for overlapping three-year terms. One member shall be a resident who is receiving retirement benefits under this chapter. Statewide teacher organizations may submit to the governor a list of recommended nominees to serve on the board.

(b) Members of the board serve without compensation except that each member may be reimbursed for actual and necessary expenses at the rate established in AS 39.20.180.

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(c) The board shall confer with the commissioner of administration regarding the administration of the system and may make recommendations that it considers necessary.

(d) The commissioner of administration shall report to the board concerning the condition and administration of the system. The reports shall be distributed to the members of the system. The commissioner of revenue shall provide reports to the board on the condition and investment performance of the teachers' retirement trust fund.

(e) The board shall serve as an appeal board and shall hold hearings at the request of an employer, member, annuitant, or any beneficiary on decisions made by the administrator. The board shall submit its findings to the administrator. The board shall hold annually one or more public hearings to discuss proposed changes in the system and to consider and adopt resolutions which might apply to the system.

(f) The board shall meet at the call of the chairman, any three members, or at the request of the commissioner of administration.

(g) Expenses for the board and its operation shall be paid from the retirement fund.

(h) The board may waive the requirements of AS 14.25.173 in accordance with AS 14.25.175.

(i) The board may adopt regulations recommended by the administrator to implement this chapter with modifications it considers proper. (E.O. No. 26 (1964); am §§ 1 — 3 ch 85 SLA 1969; am § 1 ch 61 SLA 1972; am § 2 ch 81 SLA 1979; am § 3 ch 13 SLA 1980; am § 3 ch 137 SLA 1982; am § 2 ch 106 SLA 1988; am §§ 1, 2 ch 141 SLA 1988)

Effect of amendments. — The first 1988 amendment, effective June 5, 1988, deleted "teacher's" preceding "retirement" in subsection (g).

The second 1988 amendment, effective June 9, 1988, repealed and reenacted subsections (c) and (d), which formerly related to the same subject matter.

While neither amendment gave effect to the other, both have been given effect in this section as set out above.

Sec. 14.25.040. Membership. (a) A teacher or member contracting for service with a participating employer is subject to this chapter.

(b) A state legislator who was an active member of this system under other sections of this chapter within the 12 months immediately preceding election to office may elect to be an active member of this system for as long as the state legislator serves continuously as a state legislator subject to the requirements of (c) of this section, if, within 90 days after taking the oath of office,

(1) the state legislator directs the employer in writing to

(A) pay into this system the employer contributions required for a member under this chapter; and

(B) deduct from the state legislator's salary and pay into this system

(i) the employee contributions required for a member under this chapter; and

(ii) an amount equal to the difference between the total employer and state contributions required for a member under this chapter and the employer contributions which would be required under the public employees' retirement system (AS 39.35) if the legislator were covered under that system; and

(2) notice is given the administrator in writing.

(c) A state legislator is not entitled to elect membership under (b) of this section if the state legislator is covered for the same period of service under the public employees' retirement system (AS 39.35). An election of membership under (b) of this section is retroactive to the date the state legislator took the oath of office. A state legislator may not receive membership credit under (b) of this section for legislative service performed before the legislative session during which the state legislator elected membership under (b) of this section. In order to continue in membership service under (b) of this section, the state legislator must earn at least 0.3 years of membership service under other sections of this chapter during each five-year period. (§ 5 ch 145 SLA 1955; am § 1 ch 86 SLA 1963; am § 1 ch 151 SLA 1966; am § 1 ch 85 SLA 1971; am § 1 ch 66 SLA 1973; am § 1 ch 169 SLA 1976; am § 1 ch 82 SLA 1979)

Sec. 14.25.043. Reemployment of retired members. If a retired member again becomes an active member, benefit payments may not be made during the period of reemployment. The retirement benefit must be suspended for the entire school year if the teacher is reemployed as an active teacher for a period equivalent to a year of service. During the period of reemployment, deductions from the member's salary will be made in accordance with AS 14.25.050. Upon subsequent retirement, the retired member is entitled to receive an additional benefit based on the credited service and the average base salary during the period of reemployment in accordance with AS 14.25.110. (§ 4 ch 13 SLA 1980)

Sec. 14.25.045. Participation by National Education Association employees. (a) An employee or former employee of the National Education Association of Alaska may participate in the system under this chapter if

(1) the employee or former employee possesses or is eligible to possess a teacher certificate under AS 14.20.020 and

(2) the employee or former employee of the National Education Association of Alaska pays all retroactive contributions required to be made under this chapter.

(b) For purposes of computing the period of time for which retroactive contributions may be due, an employee or former employee may

count employment with the National Education Association of Alaska since July 1, 1956. (§ 4 ch 99 SLA 1974; am § 1 ch 98 SLA 1975; am § 3 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "system" for "retirement fund" in the introductory language of subsection (a).

Sec. 14.25.047. Participation by special education service agency employees. An employee of the Special Education Service Agency may participate in the retirement fund under this chapter if

- (1) the employee possesses or is eligible to possess a teacher certificate under AS 14.20.020; and
- (2) the employee pays all retroactive contributions required to be made under this chapter. (§ 3 ch 112 SLA 1986)

Sec. 14.25.048. Teachers of Alaska native language and culture. (a) Except as provided in (d) of this section, an employee employed by a participating employer on or after June 5, 1988 shall participate in the system under this chapter if the employee

- (1) teaches Alaska Native language or culture in a permanent full-time or permanent part-time position;
- (2) learned about the subject to be taught by living in the culture or using the language in daily life; and
- (3) is qualified to teach the subject to elementary or secondary students as required by regulations adopted by the Department of Education.

(b) An employee or former employee may receive credit for retroactive membership service for employment before June 5, 1988 if the employee or former employee met the requirements listed in (a) of this section at the time of the employment. To receive credit for the retroactive membership service, the employee or former employee shall claim the service and pay the retroactive contributions required under AS 14.25.061. However, an employee or former employee may not receive retroactive credit under this subsection if the employee received credited service under AS 39.35 for the employment.

(c) An employee or former employee who received credit under AS 39.35 for service that qualifies under (a) of this section may elect to transfer those periods of employment to the system. To receive credit for retroactive membership service under this subsection, the employee or former employee shall claim the service and pay the retroactive contributions required under AS 14.25.061.

(d) Notwithstanding (a) of this section, an employee employed as a teacher of Alaska Native language and culture and participating in the Public Employees' Retirement System under AS 39.35 on the day before June 5, 1988 shall remain a member under AS 39.35 unless the employee elects to become a member of the Teachers' Retirement System on or before September 3, 1988. (§ 4 ch 106 SLA 1988)

Editor's notes. — Section 36, ch. 106, SLA 1988 provides: "If June 5, 1988 occurs during the interim between school terms, a person is considered to be employed on the day before June 5, 1988 if the person was employed by a participating employer on the last day of the school term immediately preceding the begin-

ning of the interim and is employed by the employer on the first day of the school term immediately following the interim."

Effective dates. — Section 39, ch. 106, SLA 1988, makes this section effective June 5, 1988, in accordance with AS 01.10.070(c).

Sec. 14.25.050. Contributions by teachers. (a) Beginning July 1, 1970, each teacher shall contribute to the system an amount equal to seven per cent of the teacher's base salary accrued from July 1 to the following June 30. The employer shall deduct the contribution from the teacher's salary at the end of each payroll period.

(b) Each teacher is entitled to receive credit for unrefunded contributions paid into the retirement fund of 1945. (§ 6 ch 145 SLA 1955; am § 4 ch 89 SLA 1960; am § 3 ch 78 SLA 1962; am § 1 ch 84 SLA 1969; am § 1 ch 138 SLA 1970; am § 1 ch 128 SLA 1977; am § 5 ch 106 SLA 1988)

Revisor's notes. — Section 5, ch. 106, SLA 1988 amended (b) of this section to substitute "retirement system of 1945" for "retirement fund of 1945." The amendment was erroneous and inconsistent with other references in this chapter to the fund. That amendment is not, therefore, shown in the text of the subsection.

Effect of amendments. — The 1988 amendment, effective June 5, 1988, in subsection (a), substituted "system" for "retirement fund" in the first sentence and rewrote the second sentence, which read "The contribution shall be deducted by the employer at the end of each payroll period."

NOTES TO DECISIONS

Cited in *Casperon v. Alaska Teachers' Retirement Bd.*, Sup. Ct. Op. No. 2677 (File No. 6198), 664 P.2d 583 (1983).

Sec. 14.25.055. Supplemental contributions by teachers. If a teacher first joined the system before July 1, 1982, and is married or has a minor child and wishes to make a spouse or minor child eligible for a spouse's pension or a survivor's allowance, the teacher may elect to make a supplemental contribution of an additional one percent of the teacher's base salary within 90 days of the teacher's entry into participation in the system, or within 90 days of marriage, or within 90 days of the birth or adoption of a child dependent upon the teacher. Once an election is made under this section, supplemental contributions must be made whenever contributions are required under AS 14.25.050 unless the teacher executes a written waiver with the administrator. The execution of a waiver relinquishes all rights and benefits previously accrued under AS 14.25.162 and 14.25.164. (§ 2 ch 151 SLA 1966; am § 1 ch 45 SLA 1967; am § 2 ch 84 SLA 1969; am § 2 ch 138 SLA 1970; am § 2 ch 66 SLA 1973; am § 2 ch 128 SLA 1977; am § 5 ch 13 SLA 1980; am § 4 ch 137 SLA 1982)

Sec. 14.25.060. Arrearage indebtedness. (a) If a member has military service or Alaska Bureau of Indian Affairs (BIA) service, or if a member joined the system before July 1, 1978, and has creditable outside service, the member is indebted to the system as follows:

(1) At the time of first becoming a member of the system, the arrearage indebtedness is seven percent of the base salary multiplied by the total number of years of creditable outside, military, and Alaska BIA service. The administrator shall add compound interest at the rate prescribed by regulation to the arrearage indebtedness beginning July 1, 1963, or at the time the member first becomes eligible to claim the service, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(2) If a member terminates from the system and is subsequently reemployed as a member, the arrearage indebtedness to the system for outside, military, or Alaska BIA service accumulated in the interim is seven percent of the base salary upon reentering membership service, multiplied by the number of years of interim outside, military, and Alaska BIA service. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning July 1, 1963, or the date of reemployment as a member, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If a member joins the system on or after July 1, 1978, and has creditable outside service, the member may claim this service. If claimed, the member is indebted to the system as follows:

(1) The arrearage indebtedness is the full actuarial cost of providing benefits for the service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(2) If a member terminates from the system and is subsequently reemployed as a member, the arrearage indebtedness for outside service during the interim is the full actuarial cost of providing benefits for the interim service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(c) The total military service claimed may not exceed five years. The combined total of outside and military service may not exceed 10 years, except that, if entry into the armed forces is immediately preceded by membership service and within one year after discharge is continued by membership service, that service will not be counted for purposes of determining the applicability of the 10-year limitation on the combined total of outside and military service. (§ 7 ch 145 SLA 1955; am § 3 ch 142 SLA 1957; am § 5 ch 89 SLA 1960; am § 2 ch 86 SLA 1963; am § 11 ch 70 SLA 1964; am §§ 3, 4 ch 151 SLA 1966; am § 2 ch 76 SLA 1968; am §§ 3, 4 ch 138 SLA 1970; am § 3 ch 66 SLA 1973; am § 3 ch 128 SLA 1977; am § 14 ch 136 SLA 1978; am §§ 6, 7

ch 13 SLA 1980; am §§ 5, 75 ch 137 SLA 1982; am § 1 ch 82 SLA 1986; am §§ 6, 7 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, in subsection (a), substituted "to the system" for "to the retirement fund" in the introductory language and in the first sentence in paragraph (2), and made a minor punc-

tuation change in the first sentence in paragraph (1); and, in subsection (b), substituted "system" for "retirement fund" in the second sentence in the introductory paragraph and deleted the repeal line for former paragraph (3).

Opinions of attorney general. — In computing the amount of contributions for arrearages, teaching service in Alaska with the Bureau of Indian Affairs, a federal agency, is not "creditable membership service" such as will excuse the payment of arrearages for service prior to June 30, 1955, for participation in the teachers' retirement plan. 1960 Op. Att'y Gen. No. 11.

Bureau of Indian Affairs teaching service should be treated as "outside service"

for the purposes of computing "arrearages" and "creditable service" under provisions of the Teachers' Retirement Act. 1960 Op. Att'y Gen. No. 11.

Regulations promulgated by the territorial or State Board of Education governing salaries are not germane to calculations of arrearage forgiveness or creditable service under the Teachers' Retirement System. 1960 Op. Att'y Gen. No. 11.

Sec. 14.25.061. Retroactive indebtedness. (a) A member who was not subject to the provisions of this chapter, but who becomes subject to them because of a legislative change, may elect to receive credit for retroactive membership service by contributing to the system an amount equal to the contributions the member would have made had the member been subject to the provisions of this chapter for those years of retroactive service after June 30, 1955. Retroactive contributions are not required for retroactive membership service before July 1, 1955. Compound interest at the rate prescribed by regulation shall be added to the retroactive indebtedness from July 1, 1966, or the time of first becoming eligible under this chapter, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If retroactive indebtedness contributions have been made for retroactive service before July 1, 1955, the member is entitled to a refund of those retroactive membership indebtedness contributions.

(c) A refund of retroactive indebtedness contributions for retroactive service before July 1, 1955 is not subject to the repayment provision of AS 14.25.062. (§ 4 ch 128 SLA 1977; am §§ 8, 9 ch 13 SLA 1980; am § 8 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, sub-

stituted "system" for "retirement fund" in the first sentence in subsection (a).

Sec. 14.25.062. Reinstatement indebtedness. A teacher who has received a refund of contributions in accordance with AS 14.25.150 is indebted to the system in the amount of the total refund. Compound interest at the rate prescribed by regulation shall be added to the reinstatement indebtedness from the date of the refund to the date of

repayment or the date of retirement, whichever occurs first. (§ 4 ch 128 SLA 1977; am § 10 ch 13 SLA 1980; am § 9 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "system" for "retirement fund" in the first sentence.

Sec. 14.25.063. Payment of indebtedness. (a) In this chapter, a member does not have to be reemployed under this system in order to make indebtedness payments. However, except as provided in (d) of this section, a former member must be reemployed under this system in order to make indebtedness payments. Payments apply first to accrued interest and then to principal.

(b) Any outstanding indebtedness that exists at the time a member is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based on the member's corresponding service.

(c) If, as a result of service credit claimed for which there is a corresponding indebtedness existing at retirement, the member's retirement benefit is actuarially reduced and the resulting benefit is less than it would have been if the service credit had not been claimed, the retirement benefit shall be equal to the amount it would have been had the service credit never been claimed.

(d) A former member who received a total refund of the member's contribution account balance because of a levy under AS 09.38.065 or a federal tax levy may make indebtedness payments under this section. (§ 11 ch 13 SLA 1980; am §§ 6, 7 ch 137 SLA 1982; am §§ 1, 2 ch 89 SLA 1988)

Effect of amendments. — The 1988 amendment, in subsection (a), substituted "In" for "For purposes of" in the first sentence and inserted "except as provided in (d) of this section" in the second sentence; and added subsection (d).

Sec. 14.25.065. Transmittal of contributions. (a) All contributions deducted in accordance with AS 14.25.050 and 14.25.055 shall be transmitted to the system for deposit in the retirement fund no later than 15 days following the close of the payroll period, with the final contributions due for any school year transmitted no later than July 15.

(b) The contributions of employers under AS 14.25.070 must be transmitted to the system for deposit in the retirement fund at the close of each pay period. If the contributions are not submitted within 15 days of the close of each payroll period, interest must be assessed on the outstanding contributions at one and one-half times the most recent actuarially determined rate of earnings for the system from the date that contributions were originally due. In addition, the amount of the contributions and interest may be deducted by the Department of Education from the state funds due the school district and the amount so deducted transmitted to the system for deposit in the retirement fund. Amounts due from the University of Alaska and interest as

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prescribed in this section may be deducted by the commissioner of administration from any state funds due the University of Alaska and the amount deducted transmitted to the administrator for deposit in the retirement fund. (§ 3 ch 84 SLA 1969; am § 4 ch 66 SLA 1973; am § 12 ch 13 SLA 1980; am § 10 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, inserted "system for deposit in the" in subsection (a) and, in subsection (b), substituted "system for deposit in the retirement fund" for "administrator" in the first sentence and "system" for "administrator" in the third sentence.

Sec. 14.25.070. Contributions by employer. An employer shall contribute to the system an amount equal to the percentage, as certified by the administrator, of the sum total of the base salaries of all teachers that is required in addition to teacher contributions to provide the benefits of this chapter times the sum total of the base salaries paid to teachers by the employer. (§ 8 ch 145 SLA 1955; am § 5 ch 151 SLA 1966; am § 5 ch 138 SLA 1970; am § 5 ch 66 SLA 1973; am § 22 ch 91 SLA 1987; am § 11 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "system" for "retirement fund."

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Sec. 14.25.080. Contributions by the state. [Repealed, § 25 ch 91 SLA 1987.]

Sec. 14.25.090. Contributions by the state for arrearages. [Repealed, § 7 ch 66 SLA 1973.]

Sec. 14.25.100. Credit for service in the armed forces. (a) A member who served as an active member of the armed forces of the United States may receive credited service under this system up to a maximum of five years. Each 12 months of military service equals one school year, and lesser military periods will be determined for credit purposes in a proportionate ratio to a year. To receive credited service under this section, the member must have received a discharge other than dishonorable. Credit for service in the armed forces shall be granted only if the member makes contributions for the service in the same manner as required for outside service under AS 14.25.060. The military service credited under this section shall be included in the 10-year limitation of outside service as specified in AS 14.25.060, except if entry into the armed forces is immediately preceded by Alaska membership service and following discharge is continued by Alaska membership service within one year thereafter, service may not be counted for purposes of determining the applicability of the 10-year limitation on outside service.

(b) Where a member is unable to resume teaching in a public school within one year following discharge because of hospitalization, rehabilitation training, a disability derived while in the armed forces, or other like circumstances, the administrator shall determine the allowance or disallowance of any service in the armed forces.

(c) *[Repealed, § 7 ch 155 SLA 1976.]*

(d) *[Repealed, § 7 ch 155 SLA 1976.]*

(e) A member may not be credited with the same period of service in the armed forces under this section if credit for that military service was granted under the public employees' retirement system (AS 39.35). The combined period of military service claimed under this section and AS 39.35 may not exceed five years. (§ 11 ch 145 SLA 1955; am § 8 ch 89 SLA 1960; am § 1 ch 57 SLA 1974; am §§ 5, 7 ch 155 SLA 1976; am § 5 ch 128 SLA 1977; am § 13 ch 13 SLA 1980)

Sec. 14.25.105. Credit for service as an employee of the Territory of Alaska. (a) A teacher who completes 15 years of membership service under this chapter may elect to receive credited service for employment rendered to the Territory of Alaska before January 3, 1959, regardless of the office, department, division or agency of the territory in which employed. Credited service allowed under this section may not exceed five years.

(b) A teacher may not be credited with service under this section if credit for service as an employee of the Territory of Alaska was granted for the same period under the public employees' retirement system (AS 39.35).

(c) A teacher who elects to receive credited service under this section for service to the Territory of Alaska shall make a retroactive contribution under this system for the period of territorial employment following June 30, 1955. (§ 1 ch 146 SLA 1980)

Sec. 14.25.107. Credit for Alaska BIA service. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. (§ 8 ch 137 SLA 1982)

Sec. 14.25.110. Retirement benefits. (a) Subject to AS 14.25.167, a member is eligible for a normal retirement benefit if the member

(1) was first hired before July 1, 1975, has attained the age of 55 years, and has at least 15 years of credited service, the last five of which have been membership service;

(2) has attained the age of 55 years and has at least eight years of membership service;

(3) has attained the age of 55 years, has at least five years of membership service, and has at least three years of Alaska BIA service;

(4) has at least 25 years of credited service, the last five of which have been membership service;

(5) has at least 20 years of membership service;

(6) has at least 20 years of combined membership service and Alaska BIA service, the last five of which have been membership service; or

(7) has at least one-half year of membership service as a part-time teacher for each of 20 school years.

(b) Subject to AS 14.25.167, a member is eligible for an early retirement benefit upon completing any one of the service requirements in (a)(1), (2), or (3) of this section and attaining the age of 50 years.

(c) The burden is on the applicant to prove eligibility for retirement benefits to the full satisfaction of the administrator.

(d) The monthly amount of a retirement benefit for a member who has paid the full amount of any indebtedness is two percent of the member's average base salary during any three school years of membership service times the years of credited service, including credited fractional years, divided by 12. An actuarial adjustment must be made for early retirement.

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(e) The monthly amount of a retirement benefit must be determined in accordance with (d) of this section as it is in effect on the date of termination of the retiring member's last segment of employment.

(f) The annual amount of retirement benefits for a retiring member who was a member of the retirement system established by the Retirement Act of 1945 may not be less than \$975 plus 10 percent of the total contribution made by the member to the retirement fund of 1945.

(g) A member who is eligible for a service retirement salary under this chapter or under the Retirement Act of 1945 is entitled to a benefit of at least \$25 per month for each year of credited service, excluding adjustments made under AS 14.25.142 or 14.25.143. If the member elected option two under former AS 14.25.063(b)(2) for payment of any indebtedness when the member initially applied for a retirement benefit, or if the member elected to receive an early retirement benefit under (b) of this section, the resulting benefit reduction continues in effect.

(h) The monthly retirement benefit for a member who was receiving a retirement benefit on July 1, 1955, is \$50 a month if the member was at least 55 years of age on July 1, 1955.

(i) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) the member meets the eligibility requirements of this section; (2) the member terminates employment; and (3) the member applies for retirement. Benefits are not payable under this section during a school year in which credit for a full year of service is granted. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment shall be for the month in which the member dies or is no longer eligible for a benefit under this section. (§ 12 ch 145 SLA 1955; am § 4 ch 142 SLA 1957; am § 9 ch 89 SLA 1960; am § 4 ch 86 SLA 1963; am § 6 ch 151 SLA 1966; am § 2 ch 85 SLA 1971; am § 8 ch 66 SLA 1973; am § 1 ch 77 SLA 1973; am § 2 ch 57 SLA 1974; am §§ 1 — 3 ch 173 SLA 1975; am § 5 ch 169 SLA 1976; am § 14 ch 13 SLA 1980; am § 2 ch 146 SLA 1980; am § 9 ch 137 SLA 1982; am § 1 ch 81 SLA 1986; am §§ 1, 2 ch 117 SLA 1986; am § 22 ch 85 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 2, 1988, in-

Effect of amendments. — The first 1986 amendment added paragraph (7) of subsection (a) and made minor, related word and punctuation changes.

The second 1986 amendment added "Subject to AS 14.25.167" at the beginning of subsections (a) and (b) and made related grammatical changes.

Editor's notes. — The 1982 amendment of AS 14.25.063(b), which is referred to in subsection (g), deleted the language in that section concerning options.

serted "former" in the second sentence in subsection (g).

The reference to AS 14.25.063(b)(2) in subsection (g) is incorrect in light of the 1982 amendment of that section, which rewrote subsection (b).

Opinions of attorney general. — The legislature did not intend such a strict interpretation as to require a teacher to work the last 5 school years for the full 140-day year. 1966 Op. Att'y Gen. No. 2.

A teacher satisfies the requirement of subsection (a) by working any five creditable years or combination of fractional

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years totalling 5 years, as long as they are the last 5 years she worked and they are in membership service. 1966 Op. Att'y

Gen. No. 2, issued prior to the 1975 amendment.

NOTES TO DECISIONS

Applied in *Casperson v. Alaska Teachers' Retirement Bd.*, Sup. Ct. Op. No. 2677 (File No. 6198), 664 P.2d 583 (1983).

Sec. 14.25.115. Unused sick leave credit. (a) A teacher in membership service on or after July 1, 1977, who is appointed to retirement on or after July 1, 1978, may elect to apply unused sick leave credit in computing the total number of years of credited service under AS 14.25.110(d). To obtain service credit for unused sick leave, a teacher must apply to the administrator no later than one year after appointment to retirement. Unused sick leave shall be credited on a day-for-day basis in accordance with the table for service after July 1, 1969, contained in AS 14.25.220(43). Teacher contributions may not be required for credited unused sick leave.

(b) A teacher appointed to retirement before July 1, 1978 who returns to membership service on or after July 1, 1978 and is subsequently reappointed to retirement is eligible for unused sick leave credit only with respect to sick leave accrued during membership service on or after July 1, 1978.

(c) Benefits payable under this section accrue from the first day of the month after which all the following requirements are met: (1) the teacher meets the eligibility requirements of this section; (2) the teacher's written application for unused sick leave credit is received and verified by the administrator; and (3) a period of time has elapsed since the date of appointment to retirement equal to the amount of verified unused sick leave. Benefits are payable on the last day of the month. (§ 13 ch 136 SLA 1978; am § 29 ch 59 SLA 1982; am § 10 ch 137 SLA 1982)

NOTES TO DECISIONS

Cited in *Casperson v. Alaska Teachers' Retirement Bd.*, Sup. Ct. Op. No. 2677 (File No. 6198), 664 P.2d 583 (1983).

Sec. 14.25.120. Manner of computing service retirement salary. [Repealed, § 50 ch 13 SLA 1980.]

Sec. 14.25.125. Conditional service retirement benefits. (a) Subject to AS 14.25.167, a member is eligible for a normal retirement salary at age 55 with at least two years membership service if the member also is eligible for a normal retirement benefit under the public employees' retirement system (AS 39.35).

(b) Subject to AS 14.25.167, a member is eligible for an early retirement salary at age 50 with at least two years of membership service if the member also is eligible for an early retirement benefit under the public employees' retirement system (AS 39.35).

(c) Membership service for which contributions were refunded is not creditable under this section unless the refunded contributions have been repaid. For purposes of this section, a member or former member does not have to be reemployed under this system in order to repay refunded contributions. Compound interest at the rate prescribed by regulation must be added to the reinstatement indebtedness from the date of the refund to the date of repayment.

(d) The monthly amount of a conditional service retirement benefit shall be calculated on the years of credited service in accordance with AS 14.25.110(d), except that a member may irrevocably elect to substitute "average monthly compensation" as defined in AS 39.35.680(4) in place of the member's average base salary divided by 12.

(e) Benefits payable under this section accrue from the first day of the month (1) in which the member meets the eligibility requirements of this section, (2) following the date of termination, and (3) following application for retirement, and are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which the member dies or is no longer eligible for a benefit under this section. (§ 2 ch 174 SLA 1978; am § 15 ch 13 SLA 1980; am § 11 ch 137 SLA 1982; am §§ 3, 4 ch 117 SLA 1986)

Effect of amendments. — The 1986 (a) and (b) and made related grammatical amendment added "Subject to AS changes. 14.25.167" at the beginning of subsections

Sec. 14.25.130. Disability benefits. (a) A member who has five or more years of membership service is eligible for a disability pension if, after July 1, 1966, and before the member's normal retirement date, the member's employment is terminated because of a permanent disability as defined in AS 14.25.220.

(b) *[Repealed, § 16 ch 13 SLA 1980.]*

(c) Once each year during the first five years following appointment to disability under this section, and once every three-year period thereafter, the administrator may require a disabled member who has not attained eligibility for normal retirement to undergo a medical or mental examination by a competent physician. The administrator shall suspend any disability benefit for a disabled member who refuses to undergo a physical or mental examination when requested under this section.

(d) The amount of the disability benefit is equal to 50 percent of the member's base salary immediately before becoming disabled. The dis-

ability benefit is increased by 10 percent for each dependent child, up to a maximum of four dependent children.

(e) Benefits payable under this section accrue from the first day of the month after which the following requirements are met: (1) the member meets the eligibility requirements of this section; and (2) the member terminates employment. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment must be made to cover the period of deferment. The last payment for a dependent child shall be for the month in which the child ceases to be a dependent child. The last payment for the disabled member shall be made for the month in which the disabled member recovers from the disability, dies, or is eligible for normal retirement. (§ 14 ch 145 SLA 1955; am § 12 ch 89 SLA 1960; am § 5 ch 86 SLA 1963; am § 8 ch 151 SLA 1966; am § 15 ch 66 SLA 1973; am § 7 ch 173 SLA 1975; am § 2 ch 169 SLA 1976; am § 16 ch 13 SLA 1980; am § 12 ch 137 SLA 1982)

NOTES TO DECISIONS

"Membership years." — Teachers' Retirement Board erred when it interpreted the term "membership years" in subsection (a) as being the equivalent of "years

of service" as defined in AS 14.25.220. *Casperon v. Alaska Teachers' Retirement Bd.*, Sup. Ct. Op. No. 2677 (File No. 6198), 664 P.2d 583 (1983).

Secs. 14.25.135 — 14.25.140. Deferred retirement benefits; notification of intent to retire; manner of computing disability retirement salary. [Repealed, § 50 ch 13 SLA 1980.]

Sec. 14.25.142. Cost of living allowance. (a) While residing in the state, a person receiving a benefit under this chapter is entitled to receive a monthly cost of living allowance in addition to the basic benefit. The amount of this allowance is 10 per cent of the basic benefit.

(b) A person receiving a cost-of-living allowance under this section shall notify the administrator when the person expects to be absent from the state for a continuous period that exceeds 90 days. After that notification, the person is no longer entitled to receive the monthly cost-of-living allowance, except that a person may be absent from the state for not more than six months without loss of the cost-of-living allowance if the absence is the result of illness and required by order of a licensed physician. Upon return to the state, and upon notification to the administrator, the person is again entitled to receive the monthly cost-of-living allowance, commencing with the first monthly benefit payment made after notification of the person's return.

(c) In this section, "residing in the state" means domiciled and physically present in the State of Alaska. Being absent from the state for a continuous period of 90 days or less or six months or less when ordered by a physician does not change a person's status as "residing

§ 14.25.143 COMPILED SCHOOL LAWS OF ALASKA § 14.25.145

in the state." (§ 10 ch 151 SLA 1966; am § 18 ch 66 SLA 1973; am § 6 ch 128 SLA 1977; am §§ 2, 3 ch 82 SLA 1979)

Editor's notes. — Section 17, ch. 82, SLA 1979 provides: "A person receiving benefits under AS 14.25 on July 1, 1979 is eligible for any increase in benefits resulting from the amendments to AS 14.25 enacted in §§ 2 and 3 of ch. 82, SLA 1979."

Sec. 14.25.143. Post retirement pension adjustment. (a) When the administrator determines that the cost of living has increased and that the financial condition of the system permits, the administrator shall increase benefit payments to persons receiving benefits under this system.

(b) The amount of the increase in benefit payments may not exceed the lesser of

(1) the increase in the cost of living since the date of retirement; or

(2) four percent of the retirement benefit compounded for each year of retirement.

(c) The administrator shall implement this section by regulation.

(d) A person receiving benefits under this chapter shall be granted a 10 per cent increase in the current base benefit if the person was receiving benefits on July 1, 1976. The increase shall be effective July 1, 1977.

(e) If at the time of first receiving a retirement benefit a member was receiving a disability benefit, the administrator shall include the time during which the member received the disability benefit in determining the number of years of retirement under this section.

(f) An increase in benefit payments under this section is effective July 1 of the year for which the increase is granted. (§ 11 ch 151 SLA 1966; am § 5 ch 86 SLA 1971; am § 19 ch 66 SLA 1973; am § 3 ch 99 SLA 1974; am § 7 ch 128 SLA 1977; am § 17 ch 13 SLA 1980; am §§ 3 — 6 ch 146 SLA 1980; am § 13 ch 137 SLA 1982; am § 12 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "the system" for "the retirement fund" in subsection (a).

Editor's notes. — Section 48, ch. 146, SLA 1980 provides: "The retirement benefit payable to a member of the teachers' retirement system who is receiving a normal retirement benefit under AS 14.25.110 on July 1, 1980, and who at the time of his retirement was receiving a disability benefit under the teachers' retirement system, shall be increased by a percentage equal to the percentage of all post-retirement pension adjustments payable under AS 14.25.143 during the period that the member was receiving a disability benefit."

Sec. 14.25.145. Interest on individual accounts. Interest shall be credited to each teacher's account at the end of each school year at the rate prescribed by regulation for that year. (§ 16 ch 145 SLA 1955; am § 6 ch 142 SLA 1957; am § 4 ch 78 SLA 1962; am § 7 ch 138 SLA 1970; am § 20 ch 66 SLA 1973)

Sec. 14.25.150. Refund upon termination. (a) Except as provided in (b) of this section, a terminated member is entitled to a refund of the balance of the member contribution account. A member is not entitled to a refund of supplemental contributions except as provided in AS 14.25.160(a).

(b) A member who is terminated and is a vested member, deferred vested member, or who is entitled to benefits under AS 14.25.125, and who is married at the time of application for a refund or whose rights to a refund are subject to a qualified domestic relations order is entitled to receive a refund of the balance of the member contribution account only if the member's present spouse and each person entitled under the order consent to the refund in writing on a form provided by the administrator. The administrator may waive written consent from the person entitled under the order if the administrator determines that the person cannot be located or for other reasons established by regulation. The administrator may waive written consent from the spouse if the administrator determines that

- (1) the member was not married to the spouse during any period of the member's employment with an employer;
- (2) the spouse has no rights to benefits under this chapter because of the terms of a qualified domestic relations order;
- (3) the spouse cannot be located;
- (4) the member and spouse have been married for less than two years and the member establishes that they are not cohabiting; or
- (5) another reason established by regulation exists. (§ 16 ch 145 SLA 1955; am § 6 ch 142 SLA 1957; am § 4 ch 78 SLA 1962; am § 7 ch 86 SLA 1963; am § 12 ch 151 SLA 1966; am § 5 ch 84 SLA 1969; am §§ 21 — 23 ch 66 SLA 1973; am § 8 ch 128 SLA 1977; am § 14 ch 137 SLA 1982; am §§ 5, 6 ch 117 SLA 1986)

Effect of amendments. — The 1986 amendment added "Except as provided in (b) of this section" and made a related grammatical change in subsection (a) and added subsection (b).

Sec. 14.25.153. Rights under qualified domestic relations order. A former spouse shall be treated as a spouse or surviving spouse under this chapter to the extent required by a qualified domestic relations order. Rights under the order do not take effect until the order is filed with the administrator. (§ 7 ch 117 SLA 1986)

NOTES TO DECISIONS

Cited in *Laing v. Laing*, Sup. Ct. Op. No. 3215 (File No. S-1357), 741 P.2d 649 (1987).

Sec. 14.25.155. Nonoccupational death benefits. (a) If the death of a member occurs after completing less than one year of membership service and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the member's designated beneficiary shall be paid the balance of the member contribution account.

(b) If the death of a member occurs after completing at least one year of membership service but before becoming a vested member, and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the lump-sum death benefit described in AS 14.25.160(b) and (c) shall be paid to the designated beneficiary of the member.

(c) If the death of a vested member or deferred vested member occurs and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the surviving spouse may elect to receive either the benefits described in (b) of this section or a 50 percent joint and survivor option as provided under AS 14.25.167(a)(2) based on credited service to the date of the member's termination. If no spouse survives a vested or deferred vested member, or if a person other than the spouse is designated as beneficiary in accordance with AS 14.25.166, the administrator shall pay the designated beneficiary the benefits described in AS 14.25.160(b) and (c). Benefits accrue from the first day of the month following the member's death and are payable the last day of the month.

(d) Benefits are not payable under this section if benefits are payable under AS 14.25.157, 14.25.160, 14.25.162, 14.25.164, or 14.25.167. (§ 15 ch 137 SLA 1982; am § 8 ch 117 SLA 1986)

Effect of amendments. — The 1986 amendment inserted "in accordance with AS 14.25.166, the administrator shall pay," deleted "shall be paid" following

"the designated beneficiary," and made a related grammatical change in the second sentence in subsection (c).

Sec. 14.25.157. Occupational death benefits. (a) If (1) the death of a member occurs before the member first attains eligibility for normal retirement, and (2) the proximate cause of death is a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, and (3) the injury or hazard is not the proximate result of wilful negligence on the part of the member, the administrator shall pay a monthly survivor's pension equal to 40 percent of the member's base salary at the time of termination of employment, divided by 12, to the member's surviving spouse. If there is no surviving spouse, the administrator shall pay the monthly survivor's pension in equal parts to the dependent children of the member. On the date the normal retirement of the member would have occurred if the member had lived, monthly payments must equal the monthly amount of the normal retirement benefit to which the member, had the member lived and continued employment until the member's normal retirement date, would have been entitled with an average base salary as existed at the member's death and the credited service to which the member would have been entitled. If the member

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does not have a spouse or dependent children at the time of death or if the member designates as beneficiary under AS 14.25.166 someone other than the surviving spouse or dependent children, the administrator shall pay the member's designated beneficiary those benefits available to a beneficiary under AS 14.25.160(b) and (c) and may not pay a benefit to the surviving spouse or dependent children.

(b) The first payment of the surviving spouse's pension or of a dependent child's pension shall accrue from the first day of the month following the member's death and is payable the last day of the month. The last payment shall be made for the last month in which there is an eligible surviving spouse or dependent child.

(c) Benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.160, 14.25.162, 14.25.164, or 14.25.167. (§ 15 ch 137 SLA 1982; am § 9 ch 117 SLA 1986)

Effect of amendments. — The 1986 amendment inserted "under AS 14.25.166" in the fourth sentence and made minor grammatical changes throughout subsection (a).

Sec. 14.25.160. Death benefits. (a) A death benefit shall be paid and any supplemental contributions shall be refunded to the designated beneficiary, upon receipt of a valid claim and proof of the death of a member who

(1) is not retired and is not eligible for benefits under AS 14.25.162 or 14.25.164; and

(2) either

(A) has made supplemental contributions under AS 14.25.055 since the date one year immediately preceding the member's death or since July 1, 1983, whichever is later; or

(B) is making supplemental contributions under AS 14.25.055 but has made them for less than one year.

(b) Upon the death of an active member who meets the conditions specified in (a) of this section, the amount of the death benefit is the sum of the following less any retirement benefit previously received by the member:

(1) the member contribution account;

(2) \$100 times the years of membership service;

(3) \$1,000; and

(4) \$500 if the deceased member is survived by one or more dependent children at the time of death and if the designated beneficiary is a dependent child of the member or is the parent or guardian of the dependent child of the member.

(c) If the sum of (b)(2) and (3) of this section exceeds \$3,000, only \$3,000 may be added to amounts under (b)(1) and (4) in calculating the death benefit under (b) of this section.

(d) Upon the death of an inactive member who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b)(1) of this section.

(e) Upon the death of a disabled member who is not eligible for normal retirement and who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b) of this section.

(f) Upon the death of a retired member who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b)(1) of this section less all retirement benefits paid to the deceased member.

(g) If supplemental contributions have been made under AS 14.25.055, benefits may be payable under AS 14.25.162 or 14.25.164 if the deceased member meets the eligibility requirements of one of those sections.

(h) Payment made to a beneficiary under this section is in place of any other benefit under this chapter. (§ 17 ch 145 SLA 1955; am § 7 ch 142 SLA 1957; am § 13 ch 89 SLA 1960; am § 5 ch 78 SLA 1962; am §§ 13 — 15 ch 151 SLA 1966; am § 6 ch 84 SLA 1969; am § 18 ch 13 SLA 1980; am §§ 16, 17 ch 137 SLA 1982; am § 13 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, added "and if the designated beneficiary is a dependent child of the member or is the par-

ent or guardian of the dependent child of the member" at the end of subsection (b)(4).

Sec. 14.25.162. Survivor's allowance. (a) If an active or disabled member dies and leaves a dependent child, and supplemental contributions have been made under AS 14.25.055 for at least one year of credited service, a survivor's allowance is payable under (b) of this section. If a retired member or a deferred vested member dies and leaves a dependent child, and supplemental contributions have been made under AS 14.25.055 for at least five years of credited service, a survivor's allowance is payable under (b) of this section. Application for the survivor's allowance must be made in writing to the administrator.

(b) A survivor's allowance is payable under this section as follows:

(1) an allowance of 10 percent of the member's base salary immediately before the member's death, retirement, or disability shall be paid for each dependent child; if there are four or more dependent children, the total amount paid to those children is 40 percent of the member's base salary before the member's death, retirement, or disability, paid in equal amounts to each child; the allowance shall be recomputed for the month in which the number of dependent children is less than four and the benefits shall be decreased accordingly; the

adoption of a dependent child does not terminate the survivor's allowance payable under this section;

(2) an allowance of 35 percent of the member's base salary shall be paid to the member's surviving spouse as long as there is an eligible dependent child, as determined under (b)(1) of this section, for whom the surviving spouse is legally responsible; if there is no surviving spouse, an allowance of 10 percent of the member's base salary shall be paid to each court-appointed guardian, not to exceed one allowance for each child or for each group of children who have the same guardian or joint guardians;

(3) when no further benefits are payable under this section, the difference between the amount that would have been paid under AS 14.25.160 and any payments made to the member, spouse, guardian, or dependent children under this section shall be paid to those beneficiaries described in AS 14.25.166;

(4) benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.157, 14.25.164, or 14.25.167.

(c) The survivor's allowance accrues from the first day of the month following the death of a member and is payable on the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment is for the month in which a benefit is payable under this section. (§ 16 ch 151 SLA 1966; am §§ 7 — 9 ch 84 SLA 1969; am §§ 11, 12 ch 138 SLA 1970; am § 15 ch 32 SLA 1971; am § 1 ch 52 SLA 1972; am §§ 24, 25 ch 66 SLA 1973; am §§ 9, 10, 55 ch 128 SLA 1977; am § 19 ch 13 SLA 1980; am §§ 18, 19 ch 137 SLA 1982; am § 14 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, in subsection (b), substituted "AS 14.25.166" for "AS 14.25.160(a)" in paragraph (3) and, in paragraph (2), made a minor punctuation change; inserted "for whom the

surviving spouse is legally responsible," and added "not to exceed one allowance for each child or for each group of children who have the same guardian or joint guardians" at the end.

Sec. 14.25.164. Spouse's pension. (a) If an active or disabled member dies, a pension is payable to the member's spouse if the member made supplemental contributions under AS 14.25.055 for at least one year of credited service. If a retired member or deferred vested member dies, a pension is payable to the member's spouse if the member made supplemental contributions under AS 14.25.055 for at least five years of credited service. Application for the spouse's pension must be made in writing to the administrator.

(b) A spouse's pension is payable under this section as follows:

(1) a spouse's pension is equal to 50 percent of the retirement benefit that the deceased member was receiving; if the member was not receiving a retirement benefit, the spouse's pension is equal to 50

percent of the amount the member would have received, based on the member's average base salary and credited service to the date of the member's death and assuming that the member would have been eligible for a normal retirement benefit as of that date;

(2) in the event of the death of a member's spouse who is receiving a spouse's pension, the difference between the amount that would have been paid under AS 14.25.160 and any payments made to the member, spouse, guardian, or dependent children shall be paid to those beneficiaries described in AS 14.25.166;

(3) benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.157, 14.25.162, or 14.25.167.

(c) The spouse's pension accrues from the first day of the month following the death of a member and is payable on the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment is for the month in which the spouse dies. (§ 17 ch 151 SLA 1966; am §§ 10 — 12 ch 84 SLA 1969; am § 19 ch 69 SLA 1970; am §§ 26 — 28 ch 66 SLA 1973; am § 11 ch 173 SLA 1975; am § 11 ch 128 SLA 1977; am § 20 ch 13 SLA 1980; am § 20 ch 13 SLA 1982; am § 15 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "AS 14.25.166" for "AS 14.25.160" at the end of subsection (b)(2).

Sec. 14.25.166. Designation of beneficiary. (a) Each member shall designate the beneficiary or beneficiaries to whom the administrator shall distribute benefits payable under this chapter as a consequence of the member's death. Notwithstanding a previous designation of beneficiary, a person who is the spouse of a member at the time of the member's death automatically becomes the designated beneficiary if the spouse was married to the member during part of the member's employment for an employer

(1) except to the extent a qualified domestic relations order filed with the administrator provides for payment to a former spouse or other dependent of the member; or

(2) unless the member filed a revocation of beneficiary accompanied by a written consent to the revocation from the present spouse and each person entitled under the order; however, consent of the present spouse is not required if the member and the present spouse had been married for less than two years on the date of the member's death and if the member established when filing the revocation that the member and the present spouse were not cohabiting.

(b) Except as provided in (a) of this section, the member may change or revoke the designation without notice to the beneficiary or beneficiaries at any time. If a member designates more than one beneficiary, each shares equally unless the member specifies a different allocation or preference. The designation of a beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a benefi-

ciary shall be made on a form provided by the administrator and is not effective until filed with the administrator.

(c) If a member fails to designate a beneficiary, or if no designated beneficiary survives the member, the death benefit shall be paid

(1) to the surviving spouse or, if there is none surviving,

(2) to the surviving children in equal parts or, if there are none surviving,

(3) to the surviving parents in equal parts or, if there are none surviving,

(4) to the estate.

(d) A person claiming entitlement to benefits payable under this chapter as a consequence of a member's death shall provide the administrator with a marriage certificate, divorce or dissolution judgment, or other evidence of entitlement. Documents establishing entitlement may be filed with the administrator immediately after a change in the member's marital status. If the administrator does not receive notification of a claim before the date 10 days after the member's death, the person claiming entitlement is not entitled to receive from the division of retirement and benefits any benefit already paid by the administrator. (§ 21 ch 137 SLA 1982; am §§ 10 — 12 ch 117 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (a), inserted "the administrator shall distribute" and deleted "shall be distributed" from the end of the first sentence, added the second sentence in the introductory language and added paragraphs (1) and (2); in subsection (b), substituted "Except as provided

in (a) of this section, the member may change or revoke the designation" for "the designation may be changed or revoked by the member" in the first sentence, inserted "and a consent to revocation of a beneficiary" in the third sentence, and made minor grammatical changes; and added subsection (d).

Sec. 14.25.167. Joint and survivor option. (a) Benefits payable under this section are in place of benefits payable under AS 14.25.110, 14.25.125, 14.25.155, 14.25.157, 14.25.160, 14.25.162, or 14.25.164. Upon filing an application for retirement with the administrator, or when a disabled member becomes eligible for normal retirement under AS 14.25.130(e), the member shall designate the person who is the member's spouse at the time of appointment to retirement as the contingent beneficiary. However, if the designation of the spouse is revoked under (c) of this section, the member may designate a dependent approved by the administrator as the contingent beneficiary or may take normal or early retirement under AS 14.25.110 or 14.25.125. The administrator shall pay benefits under the option elected by the member. The member may elect an option that provides that

(1) the member is entitled to receive a reduced benefit payable for life, and, after the member's death, the contingent beneficiary is entitled to receive payments in the amount of 75 percent of the reduced benefit for life;

(2) the member is entitled to receive a reduced benefit payable for life, and, after the member's death, the contingent beneficiary is entitled to receive payments in the amount of 50 percent of the reduced benefit for life; or

(3) the member is entitled to receive a reduced benefit payable during the joint lifetime of the member and the contingent beneficiary, and, after the death of either the member or the contingent beneficiary, the survivor is entitled to receive payments in the amount of $66\frac{2}{3}$ percent of the reduced benefit for life.

(b) The aggregate of the pension payments expected to be paid to a member and the member's contingent beneficiary under the options set out in (a) of this section shall be the actuarial equivalent of the pension that the member is otherwise entitled to receive upon retirement.

(c) A member may elect or change an option without the approval of the administrator if the member's election or change is filed in writing with the administrator before the effective date of the member's retirement. A member may revoke a joint and survivor option if the member files with the administrator before the effective date of the member's retirement a revocation and a consent to the revocation signed by the member's present spouse and each person entitled to benefits under a qualified domestic relations order on forms provided by the administrator. The administrator may waive the requirement for written consent from

(1) a person entitled under the order if the person cannot be located or for another reason established by regulation; or

(2) the spouse if

(A) the member is not married;

(B) the member was not married to the spouse during any period of the member's employment with an employer;

(C) the spouse has no rights to the option because of the terms of a qualified domestic relations order;

(D) the spouse cannot be located;

(E) the member and spouse have been married for less than two years and the member establishes that they are not cohabiting; or

(F) another reason is established under regulations of the administrator.

(d) A member, including a deferred vested member, may, regardless of age, elect a joint and survivor option any time before appointment to receive a retirement benefit.

(e) If either the member or contingent beneficiary dies before the member is appointed to retirement, the election becomes inoperative. Once the member is appointed to retirement, the election is irrevocable, even if the retired member is reemployed. Any additional retirement benefit to which the reemployed member may become entitled will be paid in accordance with the initial election made under this

section, unless the contingent beneficiary is deceased. If the contingent beneficiary is deceased, the benefits earned during the period of reemployment are subject to AS 14.25.110, or this section if another contingent beneficiary was designated during the period of reemployment. All other benefits earned during previous periods of employment are subject to the election at the time the member was appointed to retirement. If death occurs during the period of reemployment and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, those benefits earned while reemployed are subject to AS 14.25.155(c). All other benefits earned during previous periods of employment are subject to the election at the time the member was appointed to retirement. If death occurs during the period of reemployment and the proximate cause of death is a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment and the injury or hazard is not the proximate result of wilful negligence on the part of the member, all benefits earned during all periods of employment are subject to AS 14.25.157.

(f) The member and any person claiming to be a contingent beneficiary shall file with the administrator a marriage certificate, divorce or dissolution judgment, or other evidence necessary to determine the applicability of this section and the identity of any contingent beneficiary.

(g) If the administrator determines, based on the affidavit of the member and other evidence, that a member is eligible to elect a form of payment other than a joint and survivor option under this section, and no contrary evidence is presented to the administrator within 60 days after the effective date of the member's retirement, no claim under this section, made by a spouse or former spouse of the member, may be paid if payment would result in an increase in actuarial liability to the system.

(h) If a member fails to elect an option under (a) of this section and no effective revocation is filed with the administrator, the member is considered to have elected the option provided in (a)(2) of this section. (§ 21 ch 137 SLA 1982; am §§ 13 — 15 ch 117 SLA 1986)

Effect of amendments. — The 1986 amendment rewrote subsection (a); in subsection (c), deleted "or revoke" and "or revocation" following "change" in two places and made related grammatical changes in the first sentence, added the second and third sentences in the introductory language, and added paragraphs (1) and (2); and added subsections (f), (g), and (h).

Sec. 14.25.168. Medical benefits. (a) Except as provided in (c) of this section, the following persons are entitled to major medical insurance coverage:

- (1) a person receiving a monthly benefit from the system;

(2) the spouse of a person receiving a monthly benefit from the system;

(3) a natural or adopted child of a person receiving a monthly benefit, if the child is a dependent child as defined in AS 14.25.220.

(b) Except as provided in (c) of this section, major medical insurance coverage takes effect on the same date as retirement benefits begin and stops when the retired person or survivor is no longer eligible to receive a monthly benefit. The coverage for persons over age 65 is the same as that available for persons under age 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors and disability insurance program.

(c) Receipt under a qualified domestic relations order of a monthly benefit from the system does not entitle a person or the person's spouse or child to insurance coverage under (a) of this section. However, a member's former spouse who receives a monthly benefit under a qualified domestic relations order is entitled to receive major medical insurance coverage if the former spouse

(1) elects the coverage within 60 days after the first monthly benefit paid under the order is mailed first class or otherwise delivered; and

(2) pays the premium established by the administrator for the coverage. (§ 18 ch 151 SLA 1966; am § 1 ch 200 SLA 1975; am § 22 ch 137 SLA 1982; §§ 16, 17 ch 117 SLA 1986)

Revisor's notes. — In 1984, the word "under" was inserted in the last sentence of subsection (b) to correct a manifest error of omission in § 22, ch. 137, SLA 1982.

Effect of amendments. — The 1986 amendment added "Except as provided in (c) of this section" at the beginning of subsections (a) and (b), making related grammatical changes, and added subsection (c).

Sec. 14.25.169. Duplicate benefits. If payments from this retirement system are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement system. A teacher may not receive (1) duplicate credit under this system for the same period of service, (2) more than one year of service credit in the course of a school year, or (3) a benefit while accruing service credit under this system, except as provided in this section. (§ 19 ch 151 SLA 1966; am § 2 ch 184 SLA 1972; am § 23 ch 137 SLA 1982)

Editor's notes. — In the first sentence, of statutes pursuant to AS 01.05.031 and the words "the teacher or spouse" were § 4, ch. 58, SLA 1982. substituted for "he or she" by the revisor

Sec. 14.25.170. Administration. The commissioner of administration is responsible for the administration of the retirement system and for making the provisions of this chapter effective. The powers and duties of the commissioner for this purpose include

- (1) maintaining the accounts of the system;
- (2) making payments for the various purposes specified;
- (3) submitting required periodic reports or statements of account;
- (4) establishing by regulation the rate of interest that shall be credited to the individual contribution accounts of teachers each year; the rate of interest shall be adopted on the basis of the probable effective rate of interest on a long-term basis, and the rate may be changed from time to time by subsequent regulation;
- (5) establishing a teachers' retirement trust fund in which the assets of the system shall be deposited and held; and
- (6) engaging an independent certified public accountant to conduct an annual audit of the system's accounts and the annual report of the system's financial condition and financial activity. (§ 14 ch 89 SLA 1960; am § 6 ch 78 SLA 1962; am § 3 ch 141 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 9, 1988, divided the formerly undivided introductory language into two sentences and deleted

"but are not limited to" at the end of the second sentence thereof, rewrote paragraph (3), which read "submitting such periodic reports or statements of account as may be required," substituted "establishing" for "prescribing" in paragraph (4), and added paragraphs (5) and (6).

Sec. 14.25.173. Adjustments. (a) If a change or error is made in the records maintained by the system or an error is made in computing a benefit, and as a result a teacher or member or beneficiary receives from the system more or less than the teacher or member or beneficiary would have been entitled to receive had the records been correct or had the error not been made, (1) the records or error shall be corrected, and (2), as far as practicable, future payments shall be adjusted so that the actuarial equivalent of the pension or benefit to which the teacher or member or beneficiary was correctly entitled will be paid. If no future benefit payments are due, a person who was paid any amount to which the person was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which the person was entitled shall be paid that amount.

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error.

(c) At each regularly scheduled meeting of the Teachers' Retirement Board, the administrator shall report to the board on all situations since the administrator's last report in which an adjustment has been prohibited under (b) of this section. If the board finds that there is reason to believe that one or more of the conditions set out in (b) of this section have not been met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver of the adjustment under AS 14.25.175. An adjustment that requires the repayment of benefits may not be required while the appeal is pending.

(d) The system shall pay interest on amounts owed to a member or beneficiary. Interest shall be charged on amounts owed to the system by a member or beneficiary if the amount owed is the result of erroneous information supplied by the member or beneficiary, or the member or beneficiary had reasonable grounds to believe the amount of the benefit was in error. The interest paid under this subsection is at the rate established by regulation for indebtedness contributions owed. Interest accrues from the date on which the correct payment was due and continues until an actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued interest for periods less than 60 days or in amounts less than the limit established in regulation for writing off small indebtedness and refund balances may not be collected or paid under this subsection. (§ 4 ch 169 SLA 1976; am § 1 ch 15 SLA 1984; am § 2 ch 82 SLA 1986)

§ 14.25.175 COMPILED SCHOOL LAWS OF ALASKA § 14.25.177

Effect of amendments. — The 1984 amendment added subsections (b) and (c). The 1985 amendment added subsection (d).

Sec. 14.25.175. Waiver of adjustments. (a) Upon appeal by an affected member or beneficiary under (b) of this section, the board may waive an adjustment or a portion of an adjustment made under AS 14.25.173 if, in the opinion of the board,

(1) the adjustment or portion of the adjustment will cause undue hardship to the member or beneficiary;

(2) the adjustment was not the result of erroneous information supplied by the member or beneficiary;

(3) before the adjustment was made, the member or beneficiary received confirmation from the administrator that the member's or beneficiary's records were correct; and

(4) the member or beneficiary had no reasonable grounds to believe the records were incorrect before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary must appeal to the board in writing within 30 days after receipt of notice that the records have been adjusted. The board shall rule on an appeal within 120 days after its receipt. The ruling of the board shall be in writing.

(c) The board may, at its discretion, conduct a hearing on an appeal under this section. In reaching a decision on an appeal, the board may issue subpoenas, administer oaths, and compel the attendance and testimony of witnesses, the taking of depositions, the submission of affidavits, and the production of documents and records.

(d) The board may impose conditions on granting a waiver which it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions to the system.

(e) The board may reconsider a ruling under this section upon request of the member or beneficiary or the administrator if the request is received within 30 days after the initial ruling. Any modification of the initial ruling must be made within 30 days after receipt of a request for reconsideration.

(f) Rulings and modifications of rulings under this section must be by a majority of a quorum of the board.

(g) Rulings on appeals and requests for reconsideration under this section may be appealed by an aggrieved member or beneficiary to the superior court for abuse of discretion. (§ 1 ch 81 SLA 1979; am § 24 ch 137 SLA 1982)

Sec. 14.25.177. Effect of amendments. (a) An amendment to this chapter is not retroactive unless its retroactivity is expressly stated in the amendment.

(b) The monthly amount of a benefit payable under this chapter shall be determined in accordance with the provisions of this chapter

in effect on the date of termination of the member's last segment of employment. (§ 4 ch 169 SLA 1976; am § 21 ch 13 SLA 1980)

Cross references. — For general rule on retroactivity of legislation, which (a) of this section restates, see AS 01.10.090.

Sec. 14.25.180. Management and investment of fund. (a) The commissioner of revenue is the treasurer of the system and the fiduciary of the fund. In managing the fund, the commissioner of revenue shall

- (1) consider the status of the fund's investments and the system's liabilities on both a current and a probable future basis;
- (2) determine the appropriate investment objectives for the fund;
- (3) establish investment policies aimed at achieving the objectives; and
- (4) act only in regard to the best financial interests of the system's beneficiaries.

(b) The commissioner of revenue may invest the fund on the basis of probable total rate of return without regard to the distinction between principal and income or to the generation of income.

(c) In carrying out investment duties under this chapter, the commissioner of revenue has the same powers and duties in regard to the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard of prudence that the commissioner must obey under AS 37.10.071(c) shall be in regard to the management of large trust investments rather than large investments: (§ 19 ch 145 SLA 1955; am § 15 ch 89 SLA 1960; am § 1 ch 128 SLA 1961; am § 1 ch 90 SLA 1962; am § 3 ch 4 SLA 1964; am §§ 1, 2 ch 66 SLA 1964; am § 1 ch 110 SLA 1964; am § 1 ch 55 SLA 1967; am § 3 ch 73 SLA 1969; am §§ 1, 2 ch 17 SLA 1970; am § 1 ch 112 SLA 1972; am § 26 ch 53 SLA 1973; am §§ 1, 2 ch 25 SLA 1974; am §§ 1, 2 ch 59 SLA 1977; am §§ 1 — 5 ch 122 SLA 1980; am § 21 ch 138 SLA 1986; am § 4 ch 141 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 9, 1988, wrote this section to the extent that a detailed comparison is impracticable.

Sec. 14.25.190. Actuarial evaluations of the system. Actuarial evaluations of the system shall be made at intervals of not more than five years and on the basis of the reevaluations the administrator may recommend any necessary readjustment to the legislature. Actuarial and financial experience analyses shall be prepared and certified by a member of the American Academy of Actuaries. (§ 21 ch 145 SLA 1955; am § 16 ch 89 SLA 1960; am § 29 ch 66 SLA 1973; am § 16 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "system" for "retirement fund" in the catchline and in the first sentence.

Sec. 14.25.200. Exemption from taxation and process.
 (a) Member contributions and other amounts held in the system on behalf of a member or other person who is or may become eligible for benefits under the system are exempt from Alaska state and municipal taxes and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before they are received by the person entitled to the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the system is void. However, a member's right to receive benefits may be assigned under a qualified domestic relations order.

(b) Member contributions and other amounts held in the system and benefits payable under this chapter are exempt from garnishment, execution, or levy as provided in AS 09.38 (exemptions). (§ 22 ch 145 SLA 1955; am § 17 ch 89 SLA 1960; am § 13 ch 84 SLA 1969; am § 22 ch 13 SLA 1980; am § 3 ch 62 SLA 1982; am § 3 ch 82 SLA 1986; am § 18 ch 117 SLA 1986; am § 17 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, substituted "in the system" for "in the retirement fund" twice in the first sentence in subsection (a) and in subsection (b), and made a minor punctuation change in subsection (b).

Effect of amendments. — The first 1986 amendment substituted "Member contributions" for "Benefits" and "a member or other person who is or may become eligible for benefits under the system" for "the members" near the beginning of subsection (a) and substituted "member contributions" for "teachers' retirement salaries" and "and benefits payable under this chapter" for "on behalf of the members" in subsection (b).
 The second 1986 amendment added the last sentence in subsection (a).

NOTES TO DECISIONS

Cited in *Gutterman v. First Nat'l Bank*, Sup. Ct. Op. No. 1876 (File No. 3996), 597 P.2d 969 (1979).

Sec. 14.25.205. Time limit for application. If an application for benefits or for refund has not been filed with the administrator by July 1 following the date on which an inactive member (except a member on leave of absence without pay) would attain age 75, or if an application for benefits or for refund has not been filed with the administrator within the 50 years following the most recent date on which the person was an active member, benefits or refunds may not be paid under this chapter and the member's records may be destroyed. (§ 14 ch 84 SLA 1969; am § 23 ch 13 SLA 1980)

Sec. 14.25.210. Penalty for false statements. A person who willfully or knowingly makes a false statement, or falsifies or permits to be falsified any record of the retirement system, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500 or by imprisonment for not more than six months, or by both, and forfeits all rights under this chapter. (§ 20 ch 145 SLA 1955)

Sec. 14.25.220. Definitions. In this chapter, unless the context requires otherwise,

(1) "active member" means a member who is employed by an employer, is receiving compensation on a full-time or part-time basis and is making contributions to the system, or a member making contributions under AS 14.20.330 or 14.20.345;

(2) "actuarial adjustment" means equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables adopted from time to time by the board;

(3) "administrator" means the person appointed by the commissioner of administration under AS 14.25.015;

(4) "annuitant" means a retired member or a disabled member who is receiving a benefit under this system;

(5) "average base salary" means the result obtained by dividing the sum of the member's three highest years' base salary by three, or if a member does not have three years base salary, then by dividing the sum of all base salaries by the number of years of base salary; the base salary for a year in which credit is granted for disability totaling more than one-third of a year may not be used in the computation of the average base salary; the base salary in a school year for which the member receives compensation for less than two-thirds of a year may not be used in the computation of the average base salary; if compensation is received for more than two-thirds of a year, the full base salary for that school year shall be used in the computation of the average base salary;

(6) "base salary"

(A) means the total remuneration payable under contract for a full year of membership service, including addenda to the contract;

(B) has the same meaning as "compensation" under AS 39.35.680(8) when applied to a state legislator who elects membership under AS 14.25.040(b);

(7) "beneficiary" means a person designated by a member to receive benefits that may be due from the system upon the member's death;

(8) "BIA service" means service, including partial years, as a teacher, a certificated person employed in a full-time position requiring a teaching certificate as a condition of employment, or a Bureau of Indian Affairs professional educator in a school or school system operated by the Bureau of Indian Affairs in Alaska;

(9) "board" means the Alaska Teachers' Retirement Board established under AS 14.25.035.

(10) "compensation" means the total remuneration paid under contract to a member for services rendered during a school year, including cost-of-living differentials, payments for leave that is actually used by the member, the amount by which the member's wages are reduced under AS 39.30.150(c), and the amount deferred under an

employer-sponsored deferred compensation plan or the tax shelter annuity plan approved by the Department of Education, but does not include retirement benefits, welfare benefits, per diem, expense allowances, workers' compensation payments, or payments for leave not used by the member, whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins; for purposes of AS 14.25.050, compensation paid includes any payment made after June 30 of a school year for services rendered before the end of the school year;

(11) "credited service" means

(A) all membership service as defined in this section, territorial employment as defined in this section, plus outside, military, and Alaska BIA service, with outside and military service limited to 10 years except under the conditions set out in AS 14.25.100;

(B) for purposes of eligibility for benefits under this chapter, service for which no indebtedness is owed;

(12) "deferred vested member" means an inactive member who meets the service requirements of a vested member.

(13) "dependent child" means an unmarried child of a member, including an adopted child, who is dependent upon the member for support and who is either (A) less than 19 years old, or (B) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education; the age limits set out in this paragraph do not apply to a child who is totally and permanently disabled;

(14) "disabled member" means a member who is terminated, who has not received a refund from the system, and who is receiving a disability benefit from the system;

(15) "early retirement" means retirement under AS 14.25.110(b);

(16) "employer" means a public school district, the Board of Regents of the University of Alaska, the Department of Education, the National Education Association of Alaska, the Regional Resource Centers or the state legislature with respect to a state legislator who elects membership under AS 14.25.040(b);

(17) "former member" means a member who is terminated and who received a total refund of the balance of the mandatory contribution account, or who has requested in writing a refund of the balance of the mandatory contribution account;

(18) "full-time teacher" means a teacher occupying a position requiring teaching on a regular basis for the normal work period per day or week at a teaching assignment, excluding teaching as an assistant or graduate assistant or teaching on a substitute, temporary, or per diem basis;

(19) "inactive teacher or member" means a member who is terminated and who has not received a refund from the system or a member

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who is on leave of absence and who is not making contributions under AS 14.20.345;

(20) "member contribution account" means the total maintained by the system of the member's mandatory contributions, indebtedness principal and interest contributions, interest credited to each of those accounts, and adjustments to the account in accordance with AS 14.25.170;

(21) "membership service" means

(A) full or part-time service as a teacher in a public school in the Territory or State of Alaska, or both, under the supervision and control of the Territorial Board of Education or the Department of Education or the school board of a city, regional educational attendance area, or borough school district;

(B) full-time or part-time teaching at the University of Alaska or a full-time administrative position at the University of Alaska which requires academic standing and which has been approved for inclusion in the system by the administrator;

(C) any period during which the teacher receives a disability benefit under this system or is on an approved sabbatical leave granted in accordance with AS 14.20.310;

(D) continuous service as a state legislator when performed by a state legislator who elects membership under AS 14.25.040(b), subject to the requirements of AS 14.25.040(c);

(E) full-time or part-time service as an employee of the Special Education Service Agency, subject to the requirements of AS 14.25.047; or

(F) full-time or part-time service as an Alaska Native language or culture expert, subject to the requirements of AS 14.25.048;

(22) "military service" means active duty in the armed forces of the United States;

(23) "nonpublic school" means a school established by an agency other than a state which is primarily supported by other than public funds, and operation of whose program rests with other than publicly elected or appointed officials, and is state approved or accredited;

(24) "non-vested member" means an active or inactive member who does not meet the requirements of a vested member or deferred vested member;

(25) "normal retirement" means retirement under AS 14.25.110(a);

(26) "outside service" means service for full years as defined by (43)(A)(x) and (43)(B)(xi) of this section

(A) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an out-of-state public school within the United States, or in a school outside the United States supported by funds of the United States;

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(B) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an approved or accredited nonpublic school within the United States, or in a school outside the United States supported by funds of the United States;

(C) in a full-time position requiring academic standing in an out-of-state institution of higher learning accredited by a nationally recognized accrediting agency as listed in the Education Directory — Colleges and Universities by the National Center for Education Statistics;

(D) as a full-time teacher in an approved or accredited nonpublic institution of higher learning in Alaska;

(27) "part-time teacher" means a teacher occupying a position requiring teaching on a regular basis for at least 50 percent of the normal workweek at a teaching assignment, excluding teaching as an assistant or graduate assistant, or teaching on a substitute, temporary, or per diem basis;

(28) "permanent disability" means a physical or mental condition which, in the judgment of the administrator, based upon medical reports and other evidence satisfactory to the administrator, presumably prevents a member from satisfactorily performing the member's usual duties for the member's employer or the duties of another position or job which an employer makes available for which the member is qualified by training or education;

(29) "prescribed rate of interest" means the rate of interest used for computing employer contributions, for preparing actuarial tables used by the system, for crediting interest to members' contributions, and for charging interest on members' indebtedness accounts;

(30) "public school" means a school operated by publicly elected or appointed school officials in which the program and activities are under the control of those officials and which is supported by public funds;

(31) "qualified domestic relations order" means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that

(A) creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a member;

(B) sets out the name and last known mailing address, if any, of the member and of each alternate payee covered by the order;

(C) sets out the amount or percentage of the member's benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(D) sets out the number of payments or period to which the order applies;

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(E) does not require any type or form of benefit or any option not otherwise provided by this chapter;

(F) does not require an increase of benefits in excess of the amount provided by this chapter, determined on the basis of actuarial value; and

(G) does not require the payment, to an alternate payee, of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(32) "retired teacher or member" means a member who is terminated, who has not received a refund from the system, and who is receiving a benefit, other than disability, from the system;

(33) "retirement" means that period of time from the first day of the month following

(A) the date of termination; and

(B) application for retirement in which a person is appointed to receive a retirement benefit, other than a disability benefit;

(34) "retirement benefit" means the annuity received by a retired member from the system;

(35) "retirement fund" or "fund" means the fund in which the assets of the system are deposited and held;

(36) "Retirement System of 1945" and "Retirement Fund of 1945" or like terms mean the system and fund established in sections 37-5-21 — 37-5-35, ACLA 1949;

(37) "school year" means the 12-month period beginning July 1 of each year and ending June 30 of the following year;

(38) "supplemental contribution account" means the account maintained by the system to record the supplemental contributions of each member, including interest and adjustments to the account in accordance with AS 14.25.170;

(39) "system" means the Teachers' Retirement System of Alaska;

(40) "teacher" or "member" means a person eligible to participate in the system and who is covered by the system, limited to

(A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state;

(B) the commissioner of education and all supervisory positions in the Department of Education;

(C) a full-time or part-time teacher of the University of Alaska or a person occupying a full-time administrative position at the University of Alaska which requires academic standing; the approval of the administrator must be obtained before an administrative position qualifies for membership in the system;

(D) a state legislator who elects membership under AS 14.25.040(b);

(41) "territorial employment" means non-teaching employment

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with the Territory of Alaska as provided under AS 14.25.105; territorial employment is not membership service;

(42) "vested member" or "vested teacher" means an active member who has completed either

(A) 15 years of service, the last five of which have been membership service, for a member first hired before July 1, 1975; or

(B) eight years of membership service; or

(C) five years of membership and three years of BIA service;

(43) "year of service" means service, except for military and territorial service, during the dates set for a school year; partial-year service credit is given for membership and BIA service as follows:

(A) before July 1, 1969, during any school year,

(i) less than 20 days, no credit;

(ii) 20 days or more but less than 35 days, 0.2 years;

(iii) 35 days or more but less than 49 days, 0.3 years;

(iv) 49 days or more but less than 63 days, 0.4 years;

(v) 63 days or more but less than 77 days, 0.5 years;

(vi) 77 days or more but less than 91 days, 0.6 years;

(vii) 91 days or more but less than 105 days, 0.7 years;

(viii) 105 days or more but less than 119 days, 0.8 years;

(ix) 119 days or more but less than 133 days, 0.9 years;

(x) 133 days or more, 1.0 years;

(B) on or after July 1, 1969, during any school year,

(i) less than nine days, no credit;

(ii) nine days or more but less than 27 days, 0.1 years;

(iii) 27 days or more but less than 45 days, 0.2 years;

(iv) 45 days or more but less than 63 days, 0.3 years;

(v) 63 days or more but less than 81 days, 0.4 years;

(vi) 81 days or more but less than 100 days, 0.5 years;

(vii) 100 days or more but less than 118 days, 0.6 years;

(viii) 118 days or more but less than 136 days, 0.7 years;

(ix) 136 days or more but less than 154 days, 0.8 years;

(x) 154 days or more but less than 172 days, 0.9 years;

(xi) 172 days or more, 1.0 year;

(C) service performed on a part-time basis will be credited with one-half credit for each day of service. (§ 2 ch 145 SLA 1955; am § 1 ch 142 SLA 1957; am § 2 ch 89 SLA 1960; am § 7 ch 179 SLA 1960; am §§ 1, 2 ch 78 SLA 1962; am §§ 8 — 12 ch 86 SLA 1963; am § 1 ch 76 SLA 1968; am §§ 15 — 19 ch 84 SLA 1969; am § 21 ch 46 SLA 1970; am §§ 13 — 18 ch 138 SLA 1970; am §§ 3 — 5 ch 229 SLA 1970; am §§ 16 — 18 ch 32 SLA 1971; am §§ 6 — 8 ch 86 SLA 1971; am §§ 30 — 33 ch 66 SLA 1973; am § 3 ch 7 SLA 1974; am § 21 ch 127 SLA 1974; am §§ 12, 13 ch 173 SLA 1975; am §§ 1, 6 ch 155 SLA 1976; am § 5 ch 169 SLA 1976; am §§ 12, 11 ch 128 SLA 1977; am §§ 4, 5 ch 174 SLA 1978; am §§ 4 — 7 ch 82 SLA 1979; am § 24 ch 13 SLA 1980; am §§ 25 — 28 ch 137 SLA 1982; am § 1 ch 55 SLA 1985; am § 4 —

7 ch 82 SLA 1986; am § 4 ch 112 SLA 1986; am § 19 ch 117 SLA 1986; am §§ 18, 19 ch 106 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 5, 1988, in paragraph (21), deleted "or" at the end of subparagraph (D), added "or" at the end of

Revisor's notes. — Reorganized in 1987 to alphabetize the defined terms.

Effect of amendments. — The 1985 amendment rewrote paragraph (8).

The first 1986 amendment designated the existing provisions in paragraph (11) as subparagraph (A) and added subparagraph (B), added "for full years as defined by (43)(A)(x) and (43)(B)(xi) of this section" in the introductory language in paragraph (26), substituted "limited to" for "including" and made a grammatical change in the introductory language in paragraph (40), and rewrote paragraph (43).

subparagraph (E), and added subparagraph (F); and repealed and reenacted paragraph (35) which formerly related to the same subject matter.

The second 1986 amendment added subparagraph (E) of paragraph (21) and made a related word change.

The third 1986 amendment added paragraph (31).

Editor's notes. — Section 51(1), ch. 13, SLA 1980 provides that the definitions in (22) and (26) of this section are retroactive to July 1, 1966.

Section 2, ch. 55, SLA 1985 provides that a member qualified under the 1985 amendment to (8) of this section may claim prior service if the member pays the arrearage indebtedness in accordance with AS 14.25.060.

NOTES TO DECISIONS

"Membership years" in AS 14.25.130(a). — Teachers' Retirement Board erred when it interpreted the term "membership years" in AS 14.25.130(a) as being the equivalent of "years of service"

as defined in this section. *Casperon v. Alaska Teachers' Retirement Bd.*, Sup. Ct. Op. No. 2677 (File No. 6198), 664 P.2d 583 (1983).

Cited in *Laing v. Laing*, Sup. Ct. Op. No. 3215 (File No. S-1357), 741 P.2d 649 (1987).

Chapter 30. Pupils and Educational Programs for Pupils.

Article

1. Compulsory Education (§§ 14.30.010, 14.30.030)
2. Physical Examinations and Screening Examinations (§§ 14.30.070, 14.30.120)
3. Education for Exceptional Children (§§ 14.30.180 — 14.30.350)
4. Health and Safety Education (§§ 14.30.360 — 14.30.370)
5. Bilingual-Bicultural Education (§§ 14.30.400 — 14.30.410)
6. Adventure-Based Education (§ 14.30.500)
7. Alaska Student Leadership Development Fund (§ 14.30.510)
8. Special Education Service Agency (§§ 14.30.600 — 14.30.660)

Article 1. Compulsory Education.

Section

10. When attendance compulsory
20. Violations
30. Report of violations and procedures

Section

45. Grounds for suspension or denial of admission
47. Admission or readmission, when cause no longer exists

Collateral references. — 68 Am. Jur. 2d Schools, §§ 219-233.
79 C.J.S. Schools and School Districts, §§ 463-470.

Extent of power of school district to provide for the comfort and convenience of teachers and pupils. 7 ALR 791; 52 ALR 249.

§ 14.30.010 COMPILED SCHOOL LAWS OF ALASKA § 14.30.010

Free textbooks and other school supplies for individual use of pupils. 17 ALR 299; 67 ALR 1196.

Teacher's civil liability for administering corporal punishment. 43 ALR2d 469.

Regulations as to fraternities and similar associations connected with educational institution. 10 ALR3d 389.

Student organization registration statement, filed with public school or state uni-

versity or college, as open to inspection by public. 37 ALR3d 1311.

What constitutes a private, parochial, or denominational school within statute making attendant at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Student's right to compel school officials to issue degree, diploma, or the like. 11 ALR4th 1182.

Sec. 14.30.010. When attendance compulsory. (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall maintain the child in attendance at a public school in the district in which the child resides during the entire school term, except as provided in (b) of this section.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at an educational program operated in compliance with AS 14.45.100 — 14.45.200 by a religious or other private school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in

(A) the state boarding school established under AS 14.16; or

(B) a full-time program of correspondence study approved by the department; in those school districts providing an approved correspon-

dence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends. (§ 37-7-1 ACLA 1949; am § 36 ch 98 SLA 1966; am § 5 ch 71 SLA 1972; am § 5 ch 190 SLA 1975; am § 1 ch 30 SLA 1976; am § 1 ch 10 SLA 1977; am § 4 ch 126 SLA 1978; am § 3 ch 11 SLA 1984; am § 1 ch 78 SLA 1987; am § 4 ch 73 SLA 1988)

Effect of amendments. — The 1988 amendment, in subsection (b)(10), divided the formerly undivided language into an introductory paragraph and subparagraph (B), and inserted subparagraph (A).

NOTES TO DECISIONS

Quoted in *L.A.M. v. State*, Sup. Ct. Op. No. 1249 (File No. 2221), 547 P.2d 827 (1976).

Stated in *In re S.D.*, Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Cited in *Matthews v. Quinton*, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961); *D.R.C. v. State*, Ct. App. Op. No. 94 (File No. 4905), 646 P.2d 252 (1982).

Collateral references. — Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Inmates of charitable institutions as residents entitled to school privileges. 48 ALR 1098.

Constitutionality, construction, and effect of statutes in relation to admission of nonresident pupils to school privileges. 72 ALR 499; 113 ALR 177.

Religious beliefs of parents as defense to prosecution for failure to comply with compulsory attendance law. 3 ALR2d 1401.

Applicability of compulsory attendance

law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 ALR2d 874.

Power of public school authorities to set minimum or maximum age requirements for pupils in absence of specific statutory authority. 78 ALR2d 1021.

Residence for purpose of admission to public school. 83 ALR2d 497; 56 ALR3d 641.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Sec. 14.30.020. Violations. A person who knowingly fails to comply with AS 14.30.010 is guilty of a violation. Each five days of unlawful absence under AS 14.30.010 is a separate violation. (§ 37-7-2 ACLA 1949; am § 37 ch 98 SLA 1966; am § 2 ch 78 SLA 1987)

Effect of amendments. — The 1987 amendment rewrote this section.

Sec. 14.30.030. Report of violations and procedures. The chief administrative officer of a district school or regional educational attendance area shall report all apparent violations of AS 14.30.010 to the governing body of the district. The governing body shall, on receiving the report or on the complaint of any person, provide for a full and impartial investigation of all charges of violation. In private or federal schools, the chief administrative officer shall make a full and impartial investigation of all apparent violations. If it reasonably appears upon investigation that a person has violated AS 14.30.010, the governing body of a district school or regional educational attendance area, or the chief administrative officer of a private or federal school, shall make and file with the district court a complaint against the person, charging the violation. (§ 37-7-3 ACLA 1949; am § 1 ch 32 SLA 1949; am § 38 ch 98 SLA 1966; am § 55 ch 6 SLA 1984; am § 23 ch 85 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 2, 1988, deleted the former last sentence, which read "The judge or magistrate may issue a warrant for the arrest of the person and may act upon the complaint."

Legislative history reports. — For an analysis of the amendment of this section by sec. 23, ch. 85, SLA 1988 (HCS CSSB 413 (Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988 p. 5.

Collateral references. — Privilege in reports or statements about school pupils. 12 ALR 147.

Sec. 14.30.040. Extension of provisions to United States public schools for aborigines. [Repealed, § 59 ch 98 SLA 1966.]

Sec. 14.30.045. Grounds for suspension or denial of admission. A school age child may be suspended from or denied admission to the public school which the child is otherwise entitled to attend only for the following causes:

- (1) continued wilful disobedience or open and persistent defiance of reasonable school authority;
- (2) behavior which is inimicable to the welfare, safety, or morals of other pupils;
- (3) a physical or mental condition which in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available;
- (4) a physical or mental condition which in the opinion of a competent medical authority will cause the attendance of the child to be inimicable to the welfare of other pupils;
- (5) conviction of a felony which the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils. (§ 39 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in *Breese v. Smith*, Sup. Ct. Op. No. 827 (File No. 1614), 501 P.2d 169 (1972).

Collateral references. — Regulations forbidding pupils to leave school grounds during school hours. 32 ALR 1342; 48 ALR 659.

Smoking as ground for expulsion or suspension of pupil. 33 ALR 1180.

Personal liability of school authorities for dismissal or suspension of pupil. 42 ALR 763.

Expulsion or suspension from private school or college. 50 ALR 1497.

Marriage or other domestic relations as ground for exclusion of pupil from school. 63 ALR 1164.

Failure of student to attain or maintain prescribed scholastic rating as ground for dropping him from roll of public educational institution. 86 ALR 484.

Validity, construction, and application of statutes or regulations concerning recreational or social activities of pupils of public schools. 134 ALR 1274.

Right of student to hearing on charges before suspension or expulsion from educational institution. 58 ALR2d 903.

Marriage or pregnancy of public school

student as ground for expulsion or exclusion, or of restriction of activities. 11 ALR3d 996.

Validity of regulation by public school authorities as to clothes or personal appearance of pupils. 14 ALR3d 1201.

Participation of student in demonstration on or near campus as warranting imposition of criminal liability for breach of peace, disorderly conduct, trespass, unlawful assembly, or similar offense. 32 ALR3d 551.

Participation of student in demonstration on or near campus as warranting expulsion or suspension from school or college. 32 ALR3d 864.

Right to discipline pupil for conduct away from school grounds or not immediately connected with school activities. 53 ALR3d 1124.

Truancy as indicative of delinquency or incorrigibility, justifying commitment of infant or juvenile. 5 ALR4th 1212.

Admissibility of hearsay evidence at disciplinary proceedings. 23 ALR4th 935.

Sec. 14.30.047. Admission or readmission, when cause no longer exists. (a) A child who has been suspended from or denied admittance to a school under AS 14.30.045(3) or (4) shall be permitted to attend school when the child is obviously recovered or presents to the governing body a statement in writing from a competent medical authority that the child is no longer afflicted with, or suffering from, the physical or mental condition to the extent that it is a cause for suspension or denial of admission under AS 14.30.045(3) or (4).

(b) A child who has been suspended from or denied admittance to a school for any other cause provided by AS 14.30.045 shall be permitted to attend school when it reasonably appears that the cause has been remedied. (§ 40 ch 98 SLA 1966)

Sec. 14.30.050. Truant officers. [Repealed, § 3 ch 78 SLA 1987.]

**Article 2. Physical Examinations and Screening
Examinations.**

Section	Section
65. Supervision	125. Immunization
70. Physical examination required	127. Vision and hearing screening examinations
120. Certificate of physical examination	

Collateral references. — 68 Am. Jur.
2d Schools, §§ 275-280.
79 C.J.S. Schools and School Districts,
§§ 452-454.

Power of municipal or school authorities to prescribe vaccination or other health measure as a condition of school attendance. 93 ALR 1413.

Sec. 14.30.060. Purpose of AS 14.30.070 — 14.30.110. [Repealed, § 59 ch 98 SLA 1966.]

Sec. 14.30.065. Supervision. The program of physical examination and immunizations prescribed by AS 14.30.065 — 14.30.127 shall be under the general supervision and in accordance with regulations of the Department of Health and Social Services. (§ 42 ch 98 SLA 1966; am § 1 ch 131 SLA 1967; am § 6 ch 104 SLA 1971)

Sec. 14.30.070. Physical examination required. (a) The governing body of each school district shall provide for and require a physical examination of every child attending school in the district. The examination shall be made when the child enters school or, in areas where no physician resides, as soon thereafter as is practicable, and thereafter at regular intervals considered advisable by the governing body of the district. For purposes of this subsection, physical examinations, within the scope of chiropractic practice, may be conducted by a chiropractor.

(b) The Department of Health and Social Services may require the district to conduct additional physical examinations which it considers necessary, and may reimburse the district for the additional examinations on the basis and to the extent the commissioner of health and welfare prescribes by regulation.

(c) Examinations shall be made by a competent physician, except that if the services of a physician cannot be obtained or if authorized by the commissioner of health and social services examinations may be made by a nurse. (§ 37-7-11 ACLA 1949; am § 10 ch 118 SLA 1949; am § 1 ch 72 SLA 1953; am § 43 ch 98 SLA 1966; am § 6 ch 104 SLA 1971; am § 11 ch 60 SLA 1988)

Effect of amendments. — The 1988 amendment added the last sentence in subsection (a).

Sec. 14.30.075. [Renumbered as AS 14.30.127.]

Secs. 14.30.080 — 14.30.110. Exclusion from attendance; vaccinations; supervision and expenditures for physical examinations; exemptions from examinations or vaccinations. [Repealed, § 59 ch 98 SLA 1966.]

Sec. 14.30.120. Certificate of physical examination. The school board, when physical examinations are made, shall deliver to the parent, guardian, or other person having the responsibility for or control of the child a report signed by the physician or nurse making the examination, specifying the findings with respect to the health and physical well-being of the child. For purposes of this subsection, physician examinations, within the scope of chiropractic practice, may be conducted by a chiropractor. (§ 37-7-13 ACLA 1949; am § 12 ch 118 SLA 1949; am § 44 ch 98 SLA 1966; am § 12 ch 60 SLA 1988)

Effect of amendments. — The 1988 amendment added the second sentence.

Sec. 14.30.125. Immunization. If in the judgment of the commissioner of health and social services it is necessary for the welfare of the children or the general public in an area, the governing body of the school district shall require the children attending school in that area to be immunized against the diseases the commissioner of health and social services may specify. (§ 45 ch 94 SLA 1966; am § 2 ch 131 SLA 1967; am § 6 ch 104 SLA 1971)

Sec. 14.30.127. Vision and hearing screening examinations. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

(b) The Department of Health and Social Services shall

- (1) set standards for the performance of vision and hearing screening;
 - (2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;
 - (3) assist with referral and follow-up of children needing professional examination or treatment; and
 - (4) assist with maintenance and repair of screening equipment.
- (§ 6 ch 138 SLA 1982)

Revisor's notes. — Enacted as AS 14.30.075. Renumbered in 1982.

§ 14.30.130 COMPILED SCHOOL LAWS OF ALASKA § 14.30.180

Secs. 14.30.130 — 14.30.170. Readmission of child excluded on account of communicable disease; examination and treatment by municipal health officers; scope of article; construction; penalty for false certificates. [Repealed, § 59 ch 98 SLA 1966.]

Article 3. Education for Exceptional Children.

Section	Section
180. Purpose	285. Transfers of exceptional children
186. Coverage	305. State support of programs for children hospitalized or confined to their homes
191. Educational evaluation and placement	315. State support of programs for gifted children
196. Hearings	325. Surrogate parents
231. Advisory committee	335. Eligibility for federal funds
250. Teacher qualifications	340. When not required to enroll
255. Administrator qualifications	347. Transportation of exceptional children
270. Substitutes	350. Definitions
272. Procedural safeguards	
274. Identification of exceptional children	
276. Least restrictive environment	
278. Individualized education program	

Collateral references. — 68 Am. Jur. 79 C.J.S. Schools and School Districts, 2d Schools, §§ 283-289. §§ 484-492.

Sec. 14.30.180. Purpose. It is the purpose of AS 14.30.180 — 14.30.350 to provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age. (§ 1 ch 120 SLA 1959; am § 1 ch 144 SLA 1970; am § 1 ch 79 SLA 1974; am § 1 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "an appropriate public education" for "competent education services" and "but less than 22 years of age" for "and for whom the regular school facilities are inadequate or not available" and deleted "the" preceding "exceptional children."

NOTES TO DECISIONS

Damage claims. — Nothing in the so-called Education for Exceptional Children Act (AS 14.30.180-14.30.350) either expressly or impliedly authorizes a damage claim based on a school district's alleged negligent classification, placement or teaching of a student. *D.S.W. v. Fairbanks N. Star Borough School Dist.*, Sup. Ct. Op. No. 2352 (File No. 4938, 4959), 628 P.2d 554 (1981).

§ 14.30.185 COMPILED SCHOOL LAWS OF ALASKA § 14.30.191

Sec. 14.30.185. Programs shall be established. [Repealed, § 59 ch 98 SLA 1966.]

Sec. 14.30.186. Coverage. (a) A borough or city school district shall provide special education and related services for exceptional children residing in the district.

(b) The board of a regional educational attendance area shall provide special education and related services in a school in the area for exceptional children residing in the area served by the school.

(c) *[Repealed, § 19 ch 147 SLA 1984.]*

(d) *[Repealed, § 19 ch 147 SLA 1984.]* (§ 2 ch 81 SLA 1965; am § 1 ch 46 SLA 1966; am § 46 ch 98 SLA 1966; am § 22 ch 46 SLA 1970; am §§ 2, 3 ch 144 SLA 1970; am §§ 23, 24 ch 124 SLA 1975; am §§ 2, 3, 19 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "special education and related services" for "for special services" and deleted "represented by not less than five children" following "exceptional children" in subsections (a) and (b) and repealed subsections (c) and (d).

Sec. 14.30.190. Establishment of standards by Department of Health and Social Services. [Repealed, § 4 ch 144 SLA 1970.]

Sec. 14.30.191. Educational evaluation and placement. (a) A school district shall obtain the consent of the child's parent or guardian before an initial evaluation or placement in a program of special education and related services.

(b) After initial placement in a program of special education and related services and not less than once every three years for as long as the child is assigned to the program, an exceptional child shall receive an educational evaluation for the identification and classification of exceptional children.

(c) Before a school district initiates or refuses a change in a child's placement or program, the district shall notify the child's parent or guardian.

(d) Upon completion of the evaluation and before placement, the school district shall provide to the parent or guardian of each exceptional child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the exceptional child.

(e) A parent may obtain an independent educational evaluation at the expense of the school district if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a hearing to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent educational evaluation.

§ 14.30.195 COMPILED SCHOOL LAWS OF ALASKA § 14.30.231

(f) If the parent or guardian obtains an independent educational evaluation at private expense, the results of the evaluation

(1) must be considered by the school district in a decision made with respect to the provision of an appropriate public education to the child;

(2) may be presented as evidence at a hearing regarding the child.

(g) If a hearing officer requests an independent educational evaluation as part of a hearing, the school district shall pay for the evaluation. (§ 5 ch 144 SLA 1970; am § 6 ch 104 SLA 1971; am § 2 ch 79 SLA 1974; am § 4 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

NOTES TO DECISIONS

Quoted in *D.S.W. v. Fairbanks N. Star* 2352 (File Nos. 4938, 4969), 628 P.2d 554 Borough School Dist., Sup. Ct. Op. No. (1981).

Sec. 14.30.195. Hearings. (a) The department shall by regulation provide for administrative hearings to be conducted under AS 14.30.180 — 14.30.350.

(b) The agency conducting a hearing under this section may issue subpoenas under AS 44.62.430 and may petition the superior court for adjudications of contempt under AS 44.62.590. (§ 5 ch 147 SLA 1984)

Secs. 14.30.200 — 14.30.220. Eligibility; budget; forfeiture of right to reimbursement. [Repealed, § 5 ch 70 SLA 1963.]

Sec. 14.30.230. Special education. [Repealed, § 6 ch 144 SLA 1970.]

Sec. 14.30.231. Advisory committee. The Governor's Council for the Handicapped and Gifted established under AS 47.80 shall serve as an advisory committee, the function of which is to provide information and guidance for the development of appropriate programs of special education and related services for exceptional children. (§ 7 ch 144 SLA 1970; am § 6 ch 104 SLA 1971; am § 6 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment substituted the language beginning "The Governor's Council for the Handicapped and Gifted" for "The commissioner of education and the commissioner of health and social services shall establish" and "programs of special education and related services" for "special edu-

cation programs and services" and deleted the former second sentence, which read "Membership of the advisory committee shall include, but is not limited to, persons representing local education agencies, state agencies, parent groups and organizations concerned with programs and services for exceptional children."

§ 14.30.240 COMPILED SCHOOL LAWS OF ALASKA § 14.30.274

Sec. 14.30.240. Supervisor. [Repealed, § 5 ch 70 SLA 1963.]

Sec. 14.30.250. Teacher qualifications. A person may not be employed as a teacher of exceptional children unless that person possesses a valid teacher certificate and, in addition, such training as the department may require by regulation. (§ 9 ch 120 SLA 1959; am § 47 ch 98 SLA 1966; am § 7 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "A person may not be employed as a teacher of" for "No person shall be employed to teach a class for."

Sec. 14.30.255. Administrator qualifications. A person may not be employed as an administrator of a program of special education and related services unless that person possesses a valid administrative certificate and, in addition, such training as the department may require by regulation. (§ 8 ch 147 SLA 1984)

Sec. 14.30.260. Exception to qualifications. [Repealed, § 19 ch 147 SLA 1984.]

Sec. 14.30.270. Substitutes. AS 14.30.250 does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of exceptional children. (§ 12 ch 120 SLA 1959; am § 49 ch 98 SLA 1966; am § 9 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "substitute teacher of" for "teacher of a class for."

Sec. 14.30.272. Procedural safeguards. A school district shall inform the parent or guardian of an exceptional child of the right to review the child's educational record, to review evaluation tests and procedures, to refuse to permit evaluation or a change in the child's educational placement, to be informed of the results of evaluation, to obtain an independent evaluation, to request an impartial hearing, and to give consent or deny access to others to the child's educational record. (§ 10 ch 144 SLA 1984)

Sec. 14.30.274. Identification of exceptional children. Each school district shall establish and implement written procedures to ensure that all exceptional children under the age of 22 who reside in the district are identified and located for the purpose of establishing their need for special education and related services. (§ 10 ch 147 SLA 1984)

Sec. 14.30.276. Least restrictive environment. Each school district shall ensure that to the maximum extent appropriate, exceptional children, including children in public or private institutions or other care facilities, are educated with children who are not exceptional and that special classes, separate schooling or other removal of exceptional children from the regular educational environment occurs only when the nature or severity of the child's exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (§ 10 ch 147 SLA 1984)

Sec. 14.30.278. Individualized education program. (a) The individualized education program for each exceptional child shall include

(1) a statement of the child's present levels of educational performance;

(2) a statement of annual goals, including short term instructional objectives;

(3) a statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;

(4) the projected dates for initiation of services and the anticipated duration of the services;

(5) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

(b) Each meeting concerning an exceptional child shall include

(1) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;

(2) the child's teacher;

(3) at least one of the child's parents or guardians;

(4) the child, when appropriate;

(5) other individuals selected by the parent, guardian, or school district. (§ 10 ch 147 SLA 1984)

Sec. 14.30.280. Psychologist qualifications. *[Repealed, § 19 ch 147 SLA 1984.]*

Sec. 14.30.285. Transfers of exceptional children. (a) The department shall institute a statewide program for the education of exceptional children, to ensure that whenever possible children are educated in the state at locations in or near their resident school district.

(b) An identified exceptional child may be sent to an educational program or residential school outside the child's community or school district if the child resides in a community or school district where an

§ 14.30.290 COMPILED SCHOOL LAWS OF ALASKA § 14.30.290

appropriate educational program cannot reasonably be made available and if the department determines that provision of special education and related services in another educational program or residential school is appropriate. If the school district and the department approve the enrollment of the exceptional child in another educational program or residential school outside the child's community or school district and the child is enrolled, the child's education expenses shall be paid as follows:

(1) except as otherwise provided by (2) of this subsection, the sending district shall pay all costs associated with the transfer;

(2) the department may provide financial assistance to the district for a child's education provided for in (1) of this subsection under regulations adopted by the department.

(c) *[Repealed, § 19 ch 147 SLA 1984.]*

(d) For the purposes of this section a child's education expenses are limited to the actual cost of necessary care, transportation, and special education and related services, including room and board.

(e) The educational assessment of an exceptional child which indicates that the educational program which is locally available is inappropriate for the needs of the child shall conform to the standards set out in AS 14.30.191.

(f) A child may not be transferred to a school outside the district in which the child resides without the consent of the parent or guardian.

(g) The withholding of consent by a parent or guardian or departmental approval for the transfer of an exceptional child under this section does not relieve a school district of the obligation to provide special education and related services to an exceptional child under AS 14.30.186. (§ 2 ch 46 SLA 1966; am §§ 8, 9 ch 144 SLA 1970; am § 6 ch 71 SLA 1972; am § 3 ch 79 SLA 1974; am §§ 11 — 13, 19 ch 147 SLA 1984; am § 1 ch 75 SLA 1986)

Effect of amendments. — The 1984 amendment rewrote subsection (b), repealed subsection (c), substituted "special education and related services" for "instruction" in subsection (d), deleted "while attending the designated institution"

from the end of subsection (d), and added subsection (g).

The 1986 amendment in subsection (b) inserted "community or" in two places in the first sentence and in one place in the introductory language of the second sentence and rewrote paragraphs (1) and (2).

Sec. 14.30.290. Purposes of appropriations. *[Repealed, § 5 ch 70 SLA 1963.]*

§ 14.30.295 COMPILED SCHOOL LAWS OF ALASKA § 14.30.325

Sec. 14.30.295. Special education outside state. [Repealed, § 4 ch 79 SLA 1974.]

Sec. 14.30.300. Nonresident apportionment. [Repealed, § 5 ch 70 SLA 1963.]

Sec. 14.30.305. State support of programs for children hospitalized or confined to their homes. A child who is hospitalized or confined to home and who receives at least 10 hours of special education and related services per week may be counted as a pupil in average daily membership when computing state support under the public school foundation program. (§ 2 ch 46 SLA 1966; am § 14 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment deleted the former first sentence, which read "Special instructional services for exceptional children who are hospitalized or confined to their homes may be provided by a school district"; inserted "is hospitalized or confined to home and who"; and substituted "special education and related services" for "instruction."

Sec. 14.30.310. Hospitalized and homebound children. [Repealed, § 5 ch 70 SLA 1963.]

Sec. 14.30.315. State support of programs for gifted children. (a) To be eligible for state support under the public school foundation program, special education and related services for gifted children must be provided in a program which has been approved in advance by the department.

(b) Nothing in this section prohibits the department from requiring approval of programs of special education and related services for other categories of exceptional children. (§ 15 ch 147 SLA 1984)

Sec. 14.30.320. Reimbursement for hospitalized or homebound children. [Repealed, § 5 ch 70 SLA 1963.]

Sec. 14.30.325. Surrogate parents. (a) The department may by regulation provide for the appointment of surrogate parents to represent exceptional children in matters relating to the provision of an appropriate public education.

(b) A surrogate parent is not liable for civil damages as a result of an act or omission committed in the surrogate parent's official capacity, except that a surrogate parent may be liable for civil damages as a result of gross negligence or intentional misconduct. (§ 15 ch 147 SLA 1984)

§ 14.30.330 COMPILED SCHOOL LAWS OF ALASKA § 14.30.350

Sec. 14.30.330. Application for enrollment. [Repealed, § 19 ch 147 SLA 1984.]

Sec. 14.30.335. Eligibility for federal funds. Notwithstanding any other provision of AS 14.30.180 — 14.30.350, the department may do all things necessary to qualify for federal funds that are available to the state for the education of exceptional children. (§ 16 ch 147 SLA 1984)

Sec. 14.30.340. When not required to enroll. A handicapped child may not be required to enroll in a special education program if the parent or guardian of the child certifies to the satisfaction of the school board of the public school system where the child resides that the child is receiving adequate educational advantages. A child shall be excused from the compulsory education requirements if a physician certifies in writing that the child's bodily, mental or emotional condition does not permit attendance at school. (§ 18 ch 120 SLA 1959; am § 6 ch 125 SLA 1961)

Sec. 14.30.345. Regulations. [Repealed, § 59 ch 98 SLA 1966.]

Sec. 14.30.347. Transportation of exceptional children.. When transportation is required to be provided as related services, exceptional children shall be carried with other children, except when the nature of their physical or mental handicaps is such that it is in the best interest of the exceptional children, as determined by the school district, that they be transported separately. State reimbursement for transportation of exceptional children shall be as provided for transportation of all other pupils except that eligibility for reimbursement is not subject to restriction based on the minimum distance between the school and the residence of the exceptional child. (§ 1 ch 105 SLA 1966; am § 1 ch 52 SLA 1976; am § 17 ch 147 SLA 1984)

Effect of amendments. — The 1984 for "part of special services" near the beginning of the section.
amendment substituted "related services"

Sec. 14.30.350. Definitions. In AS 14.30.180 — 14.30.350,

(1) "appropriate education" means personalized instruction with sufficient support services to permit a child to benefit educationally from the instruction;

(2) "consent" is only obtained if the parent or guardian has been fully informed of all information relevant to the object of the consent;

(3) "department" means the Department of Education;

(4) "exceptional children" means children who differ markedly from their peers to the degree that special facilities, equipment, or methods

are required to make their educational program effective; these children may be identified in the following categories:

(A) "deaf" children exhibit a hearing impairment that hinders the children's ability to process linguistic information through hearing, with or without amplification, and that adversely affects educational performance;

(B) "deaf-blind" children exhibit concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in a special education program solely for deaf or blind children;

(C) "gifted" children exhibit outstanding intellect, ability, or creative talent as determined in accordance with regulations of the department;

(D) "hard-of-hearing" children exhibit a hearing impairment, whether permanent or fluctuating, that adversely affects educational performance but that is not within the meaning of (A) of this paragraph;

(E) "learning disabled" children exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations; the term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia; this category does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage;

(F) "mentally retarded" children score two or more standard deviations below the national norm on an individual standardized test of intelligence and exhibit deficits in adaptive behavior manifested during the developmental period, that adversely affect the children's educational performance;

(G) "multihandicapped" children exhibit two or more of the conditions described in (A), (B), (D) — (F) and (H) — (L) of this paragraph, the combination of which causes such severe educational problems that they cannot be accommodated in a special education program for any one of the conditions;

(H) "orthopedically impaired" children exhibit a severe orthopedic impairment, including impairments caused by congenital anomaly, disease, or other causes, that adversely affects educational performance;

(I) "other health-impaired" children exhibit an autistic condition that is manifested by severe communication and other developmental and educational problems or exhibit limited strength, vitality, or alertness due to chronic or acute health problems such as heart condi-

tion, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, that adversely affects educational performance;

(J) "seriously emotionally disturbed" children exhibit one or more of the following characteristics over a long period of time and to a marked degree, that adversely affects educational performance: (i) an inability to learn that cannot be explained by intellectual, sensory, or health factors; (ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; (iii) inappropriate types of behavior or feelings under normal circumstances; (iv) a general pervasive mood of unhappiness or depression; or (v) a tendency to develop physical symptoms or fears associated with personal or school problems; the term includes children who are schizophrenic but does not include children who are only socially maladjusted;

(K) "speech-impaired" children exhibit a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects educational performance;

(L) "visually handicapped" children exhibit a visual impairment that, even with correction, adversely affects educational performance;

(5) "related services" means transportation and developmental, corrective, and other supportive services required to assist a handicapped or gifted child to benefit from special education and includes but is not limited to speech pathology and audiology, psychological services, physical and occupational therapy, recreation, counseling services, and medical services for diagnostic or evaluation purposes; the term also includes school health services, school social work services, and parent counseling and training;

(6) "special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions; the term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child, and is considered special education rather than a related service under state standards; the term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child; in this paragraph

(A) "at no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged to nonhandicapped students or their parents as a part of the regular education program;

(B) "physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, and individual and group games, and sports (including intramural and lifetime sports); the term includes special physical

education, adapted physical education, movement education, and motor development;

(C) "vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree;

(7) "school district" means a borough school district, a city school district, or a regional educational attendance area. (§ 2 ch 120 SLA 1959; am §§ 5, 6 ch 81 SLA 1965; am §§ 13, 14 ch 144 SLA 1970; am § 2 ch 119 SLA 1981; am § 18 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Article 4. Health and Safety Education.

Section
360. Curriculum
370. Evaluation

Collateral references. — 68 Am. Jur. 2d Schools, §§ 283-289.

79 C.J.S. Schools and School Districts, §§ 484-492.

Tort liability of public schools and insti-

tutions of higher learning for accidents occurring in physical education classes. 36 ALR3d 361.

Validity of sex education programs in public schools. 82 ALR3d 579.

Sec. 14.30.360. Curriculum. (a) Each district in the state public school system shall be encouraged to initiate and conduct a program in health education for kindergarten through grade 12. The program should include instruction in physical health and personal safety including alcohol and drug abuse education, cardiopulmonary resuscitation (CPR), early cancer prevention and detection, dental health, family health, environmental health, the identification and prevention of child abuse, child abduction, neglect, sexual abuse and domestic violence, and appropriate use of health services.

(b) The state board shall establish guidelines for a health and personal safety education program. Personal safety guidelines shall be developed in consultation with the Council on Domestic Violence and Sexual Assault. Upon request, the Department of Education, the Department of Health and Social Services, and the Council on Domestic Violence and Sexual Assault shall provide technical assistance to school districts in the development of personal safety curricula. A school health education specialist position shall be established and funded in the department to coordinate the program statewide. Adequate funds to enable curriculum and resource development, adequate consultation to school districts, and a program of teacher training in

§ 14.30.370 COMPILED SCHOOL LAWS OF ALASKA § 14.30.400

health and personal safety education shall be provided. (§ 1 ch 188 SLA 1976; am § 1 ch 106 SLA 1978; am § 1 ch 87 SLA 1984; am § 1 ch 24 SLA 1986)

Effect of amendments. — The 1984 amendment inserted "cardiopulmonary resuscitation (CPR), early cancer prevention and detection" in the second sentence in subsection (a).

The 1986 amendment in the second sentence of subsection (a) inserted "and personal safety" and "the identification and

prevention of child abuse, child abduction, neglect, sexual abuse and domestic violence"; and in subsection (b) in the first sentence deleted "by regulation" preceding "guidelines" and inserted "and personal safety," added the second and third sentences, and in the last sentence inserted "and personal safety."

Sec. 14.30.370. Evaluation. Health education programs conducted under AS 14.30.360 shall be evaluated by the department in the same manner as other curriculum programs are evaluated, except that the evaluation shall also include changes in the health status of the pupils as determined by physical and dental examinations conducted under AS 14.30.070 and 14.30.120. (§ 1 ch 188 SLA 1976)

Article 5. Bilingual-Bicultural Education.

Section

400. Bilingual-bicultural education

410. Bilingual-bicultural education fund

Collateral references. — 68 Am. Jur. 2d Schools, §§ 283-289.
79 C.J.S. Schools and School Districts, §§ 484-492.

Validity of statute or other regulations as to the use, or teaching, of foreign languages in schools. 7 ALR 1696; 29 ALR 1452.

Sec. 14.30.400. Bilingual-bicultural education. City or borough district school boards and regional educational attendance area boards shall provide a bilingual-bicultural education program for each school in a city or borough school district or regional educational attendance area which is attended by at least eight pupils of limited English-speaking ability and whose primary language is other than English. A bilingual-bicultural education program shall be provided under a plan of service which has been developed in accordance with regulations adopted by the department. Nothing in this section precludes a bilingual-bicultural education program from being provided for less than eight pupils in a school. (§ 26 ch 124 SLA 1975)

Sec. 14.30.410. Bilingual-bicultural education fund. (a) There is in the department a bilingual-bicultural education fund which is an account in the general fund to receive money appropriated by the legislature for bilingual-bicultural education and to be used for bilingual-bicultural education program implementation and materials development.

(b) The department shall adopt regulations for the determination of entitlement and the distribution of bilingual-bicultural funds to city and borough school districts and regional educational attendance areas and the statewide center. (§ 26 ch 124 SLA 1975; am § 9 ch 115 SLA 1978)

Article 6. Adventure-Based Education.

Section

500. Adventure-based education program

Editor's notes. — For the findings of the legislature concerning adventure based education, see SLA 1979, ch. 86, §§ 3 in the 1979 Temporary and Special Acts and Resolves.

Collateral references. — 68 Am. Jur. 2d Schools, §§ 283-289.
79 C.J.S. Schools and School Districts, §§ 484-492.

Sec. 14.30.500. Adventure-based education program. An adventure-based education program is a program designed to bring adventure-based education to high school students and appropriate juvenile offenders. A program shall include provisions for the following phases:

(1) Phase I: Basic Skills Learning

(A) physical conditioning: running, hiking, swimming, and other related activities;

(B) technical training: the use of specialized tools and equipment, camping, cooking, map reading, navigation, life saving, drown proofing, and solo survival;

(C) safety training: first aid skills, emergency care, preventive medicine, nutrition, health and personal hygiene care;

(D) team training: rescue techniques, evacuation exercises, and fire fighting;

(E) solo: solitary living for a short period with minimal equipment;

(F) interpersonal skills training: coping skills, individual and group problem solving, and societal communication skills;

(G) culturally relevant activities: traditional modes of subsistence living, travelling and surviving in wilderness areas and communities in Alaska, and cross-cultural experiences.

(2) Phase II: Skills Generalization

§ 14.30.510 COMPILED SCHOOL LAWS OF ALASKA § 14.30.600

- (A) vocational counseling and placement;
- (B) family and interpersonal counseling;
- (C) community systems utilization:
 - (i) transportation,
 - (ii) community services systems,
 - (iii) community problem solving. (§ 2 ch 86 SLA 1979)

Cross references. — For responsibility of Department of Community and Regional Affairs to establish an adventure-based education program, see AS 47.21.

Article 7. Alaska Student Leadership Development Fund.

Section

510. Alaska student leadership development fund

Sec. 14.30.510. Alaska student leadership development fund.

(a) There is established within the department the Alaska student leadership development fund. The fund shall be used to provide financial support through grants and contracts for:

- (1) student leadership organizations;
- (2) student leadership development projects;
- (3) the promotion of student leadership development activities; and
- (4) the administration and coordination of student leadership development activities and projects.

(b) The department shall implement the provisions of this section by regulation. (§ 1 ch 98 SLA 1981)

Article 8. Special Education Service Agency.

Section

600. Agency established
610. Governing board
620. Employees
630. Powers and duties

Section

640. Eligibility for service
650. Funding
660. Definition

Cross references. — For statement of legislative purpose in enacting this Article, see § 1, ch 112, SLA 1986, in the Temporary and Special Acts.

Sec. 14.30.600. Agency established. There is established, as a public organization, the special education service agency. (§ 2 ch 112 SLA 1986)

Sec. 14.30.610. Governing board. The agency shall be governed by the Governor's Council for the Handicapped and Gifted (AS 47.80.030). (§ 2 ch 112 SLA 1986)

Sec. 14.30.620. Employees. Employees of the agency are not in the state service and are not subject to the State Personnel Act (AS 39.25). However, employees of the agency shall be members of either the Teachers' Retirement System (AS 14.25) or the Public Employees' Retirement System (AS 39.35). (§ 2 ch 112 SLA 1986)

Sec. 14.30.630. Powers and duties. (a) The agency may

(1) receive and expend public and private funds to carry out the purposes of the agency;

(2) contract with the department and other public or private agencies for the provision of special education or related services;

(3) do whatever is necessary to carry out the purposes of AS 14.30.600 — 14.30.660.

(b) The agency shall

(1) provide special education services including

(A) itinerant outreach services to deaf, deaf-blind, mentally retarded, hearing impaired, blind and visually impaired, orthopedically handicapped, other health-impaired, severely emotionally disturbed, and multi-handicapped students;

(B) special education instructional support and training of local school district special education personnel; and

(C) other services appropriate to special education needs;

(2) provide for an annual audit of the agency;

(3) provide the department with a two-year plan of operation including a description of the services to be offered by the agency, the method by which the services will be evaluated, information on the number of students and school district personnel to be served, a schedule of funds available to the agency from all sources, and other information that may be required by the department by regulation;

(4) present an annual budget to the department. (§ 2 ch 112 SLA 1986)

Sec. 14.30.640. Eligibility for service. The services of the agency shall be available to school districts that serve children whose special education needs occur infrequently, who require specialized services not normally available in the school district, and who cannot be easily served by local school district personnel because of the low number of students in the district in need of the particular service. The agency may provide services to exceptional children, as that term is defined in AS 14.30.350. (§ 2 ch 112 SLA 1986)

Sec. 14.30.650. Funding. Each fiscal year the department shall allocate to the agency not less than \$85 for each special education student in the state in average daily membership or the equivalent of two percent of the funds appropriated for special education for that fiscal year, whichever is greater. The amount allocated to the agency shall be reduced each fiscal year by the amount contributed by the department to the Teachers' Retirement System (AS 14.25) or the Public Employees' Retirement System (AS 39.35) on behalf of employees of the agency. (§ 2 ch 112 SLA 1986)

Sec. 14.30.660. Definition. In AS 14.30.600 — 14.30.660, unless the context otherwise requires, "agency" means the special education service agency. (§ 2 ch 112 SLA 1986)

Chapter 33. School Safety Patrols.

Section

- 10. Requirements for school safety patrols
- 20. Organization of a patrol
- 30. Duties of a patrol

Section

- 40. Guidance for patrols
- 50. Cooperation with law-enforcement authorities
- 60. Immunity from liability

Collateral references. — 68 Am. Jur. 2d Schools, § 242.
79 C.J.S. Schools and School Districts, §§ 494, 485.

Coverage and exceptions under student accident policy. 74 ALR2d 1253.

Tort liability of public schools and institutions of higher learning for accident occurring during school athletic events. 36 ALR3d 725.

Tort liability of public schools and institutions of higher learning for injuries caused by acts of fellow students. 36 ALR3d 330.

Permitting child to walk to school unattended as contributory negligence of parents in action for injury or death of child. 62 ALR3d 541.

Sec. 14.33.010. Requirements for school safety patrols. The school board of a borough or city school district or regional educational attendance area, or a private or denominational school may require that school safety patrols be established to assist pupils to cross streets and highways adjacent to schools in safety. (§ 1 ch 68 SLA 1964; am § 53 ch 98 SLA 1966; am § 25 ch 46 SLA 1970; am § 27 ch 124 SLA 1975)

Sec. 14.33.020. Organization of a patrol. (a) If a school board, or a private or denominational school determines that a safety patrol should be established for a school, the principal of the school shall appoint pupils in the school to serve as members of the patrol.

(b) A pupil may not be appointed a patrol member unless the pupil's parents or guardian give written consent to the pupil's membership in the patrol.

(c) The principal shall designate a teacher or teachers in the school to supervise the operation of the patrol.

(d) The principal shall consult with the local law enforcement authority to determine those locations adjacent to the school where the patrol may be most advantageously used. (§ 1 ch 68 SLA 1964; am § 26 ch 46 SLA 1970; am § 28 ch 124 SLA 1975)

Sec. 14.33.030. Duties of a patrol. (a) Patrol members shall

(1) encourage pupils to refrain from crossing streets and highways at other than regular crossings;

(2) direct pupils not to cross streets and highways when the presence of traffic renders crossing unsafe;

(3) when directed, assist pupils to safely board or leave school buses.

(b) A patrol member may not, under any circumstances, be permitted to direct vehicular traffic or be stationed in a street or highway while performing the duties of a patrol member. (§ 1 ch 68 SLA 1964)

Sec. 14.33.040. Guidance for patrols. The commissioner shall, after consulting with the commissioner of public safety, adopt standards to guide patrol members in the conduct of their duties, and shall specify appropriate insignia to be worn by patrol members while on duty. (§ 1 ch 68 SLA 1964)

Sec. 14.33.050. Cooperation with law-enforcement authorities. The state troopers or the police department of a political subdivision of the state may, upon request by the department, a school board, or a private or denominational school, assist in the training and control of safety patrols. (§ 1 ch 68 SLA 1964; am § 22 ch 127 SLA 1974)

Sec. 14.33.060. Immunity from liability. The state or a political subdivision of it, a school board or any individual member of it, a private or denominational school, principal, teacher, patrol member, or parent or guardian of a patrol member is immune from liability which might otherwise be incurred as a result of an injury caused by an act or the failure to act on the part of a patrol member while on duty. (§ 1 ch 68 SLA 1964)

Chapter 35. Vocational Education.

Section	Section
10. Acceptance of Act of Congress for vocational education	25. Duties of the Department of Education
20. Duties of state Board of Education	30. Commissioner of administration as custodian of federal funds

Collateral references. — 68 Am. Jur. 2d Schools, §§ 283-289.
79 C.J.S. Schools and School Districts, §§ 484, 485.

Tort liability of public schools and insti-

tutions of higher learning for accidents associated with chemistry experiments, shopwork and manual or vocational training. 35 ALR3d 758.

Sec. 14.35.010. Acceptance of Act of Congress for vocational education. The State of Alaska accepts together with the benefits of all respective funds appropriated thereunder, all of the provisions of the Act of Congress approved February 23, 1917, Public Law 347, 64th Congress, entitled: "An Act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture, home economics and trades and industries; to provide for the cooperation of the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditures," and Acts amending or supplementing it. (§ 37-9-1 ACLA 1949)

Cross references. — For Public Law 347, see 20 U.S.C. 11-28.

Opinions of attorney general. — The Board of Education has all powers in the area of vocational education and vocational rehabilitation required to be vested

therein by the Smith-Hughes Act, 20 U.S.C. §§ 11-28, any acts amendatory or supplementary thereto and any rules or regulations or requirements thereunder. 1959 Op. Att'y Gen. No. 16.

Sec. 14.35.020. Duties of state Board of Education. (a) The state Board of Education serves as the state board for the purposes of any of the Acts described in AS 14.35.010.

(b) When required by any of the Acts described in AS 14.35.010 the board shall

(1) prepare, submit, and supervise the administration of the plans for vocational education and vocational rehabilitation;

(2) select a state director of vocational education;

(3) establish the minimum qualifications for teachers, supervisors, or directors;

(4) determine the prorated basis on which money shall be available for the salary and necessary travel expenses of the state director of vocational education.

(c) Nothing in this section shall be construed to repeal or modify any existing statute. (§ 37-9-3 ACLA 1949; am § 54 ch 98 SLA 1966)

Sec. 14.35.025. Duties of the Department of Education. When required by any of the Acts described in AS 14.35.010 the department shall

- (1) cooperate with the United States Department of Health, Education, and Welfare in the administration of the Act;
- (2) do everything necessary to entitle the state to receive money available according to the Act;
- (3) represent the state in all matters related to the administration of the Act;
- (4) expend and disburse money received according to the Act;
- (5) designate the districts, schools, departments, or classes to participate in the benefits of money received according to the Act. (§ 55 ch 98 SLA 1966)

Sec. 14.35.030. Commissioner of administration as custodian of federal funds. The commissioner of administration is designated custodian of appropriations made under any of the Acts described in AS 14.35.010. The commissioner of administration shall receive and provide for the proper custody and disbursement of all money paid to the state according to any of the Acts. (§ 37-9-2 ACLA 1949; am § 56 ch 98 SLA 1966)

Sec. 14.35.040. Payment of expenses of administration. *(Repealed, § 59 ch 98 SLA 1966.)*

Chapter 36. Community Schools.

Section	Section
10. Purpose, intent	40. Community school program, application for grants
20. Community schools grant fund created; limitations on use	50. Application review, disposition
30. Grants from the state	60. Technical assistance
	70. Definitions

Sec. 14.36.010. Purpose, intent. (a) The community school is an expression of the philosophy that the school, as the prime educational institution of the community, is most effective when it involves the people of that community in a program designed to fulfill their educational needs. The community school promotes a more efficient use of school facilities through an extension of buildings and equipment beyond the normal school day. The purpose of this chapter is to provide state leadership and financial support to encourage and assist local school districts in the establishment of community schools.

(b) It is the intent of the legislature that

(1) a program of community school grants be established to provide assistance to local communities in the initial development, implementation, and operation of community school programs;

(2) technical assistance, monitoring, training, and coordination of statewide efforts to develop and operate community school programs be provided by the department;

(3) the community school program will become fully operational once a plan of operation has been approved by the commissioner; and

(4) evaluation of the approved plan of operation for a community school program shall be conducted by the department in cooperation with the school district at least once every four years; a report of the community school programs evaluated in the preceding year shall be presented by the commissioner to the legislature before the 15th day of each regular session of the legislature. (§ 1 ch 103 SLA 1975; am § 1 ch 164 SLA 1980)

Sec. 14.36.020. Community schools grant fund created; limitations on use. There is created a community schools grant fund as an account in the general fund. The fund shall be used to make community school grants to local attendance areas or school districts under this chapter. Legislative appropriations for community school grants shall be deposited in this fund. Community school grants may be used for planning, training and operations. (§ 1 ch 103 SLA 1975)

Sec. 14.36.030. Grants from the state. (a) A district operating a community school program under an approved plan of operation may receive an annual grant from the state of one-half of one percent of its public school foundation support or \$10,000, whichever is greater.

(b) For each fiscal year beginning after June 30, 1980, a district operating an approved community school program under (a) of this section may receive a further grant from the state equal to the amount allocated by the district to the support of the community school program from sources other than the grant provided under (a) of this section. The additional grant under this subsection may not exceed the amount received under (a) of this section.

(c) The support of a community school program by a district under (b) of this section may be in cash or in kind. Cash support may be derived from any source the district considers appropriate. In kind support by a district is limited to support for purposes which benefit only the community school program. Cash and in kind support of the community school program by a district shall be itemized in the community education section of the district budget.

(d) If appropriations in a fiscal year are insufficient to fund the grants authorized under (a) of this section, the department shall award the grants to eligible districts on a pro rata basis. (§ 1 ch 103 SLA 1975; am § 2 ch 164 SLA 1980; am § 23 ch 91 SLA 1987)

Effect of amendments. — The 1987 amendment added subsection (d).

Sec. 14.36.040. Community school program, application for grants. Under regulations adopted by the board of education, a district may submit to the commissioner an application for a community school grant. An application shall include

(1) a comprehensive plan for the community school program, including, but not limited to, before and after school hours activities for both children and adults, continued education programs for children and adults, and cultural enrichment and recreational activities for citizens in the community;

(2) a provision for a community schools advisory council;

(3) provision for community school direction and coordination to include personnel requirements;

(4) an assurance that the community school program will be reasonably available to residents of all communities within the district. (§ 1 ch 103 SLA 1975; am § 3 ch 164 SLA 1980)

Sec. 14.36.050. Application review, disposition. The commissioner shall review and approve, disapprove or return to the district for modification, an application for a community school program grant. (§ 1 ch 103 SLA 1975; am § 4 ch 164 SLA 1980)

Sec. 14.36.060. Technical assistance. On the request of a school district, the department shall provide technical assistance to a school district in developing and submitting an application for a community school program. The department may use its own staff or consultants that may be necessary to accomplish this purpose. (§ 1 ch 103 SLA 1975)

Sec. 14.36.070. Definitions. In this chapter

(1) "board" means the governing body of a school district;

(2) "commissioner" means the commissioner of education;

(3) "community school program" means the composite of those educational, cultural, social and recreational services provided the citizens of a community, except those services normally provided through the regular instructional program;

(4) "department" means the Department of Education;

(5) "district" means a district of the state public school system as defined in AS 14.12.010. (§ 1 ch 103 SLA 1975; am § 14 ch 94 SLA 1980; am §§ 5, 6 ch 164 SLA 1980)

Chapter 40. The University of Alaska and the Community Colleges.

Article

1. Establishment and Organization of the University of Alaska (§ 14.40.088)
2. Board of Regents and President of the University of Alaska (§ 14.40.255)
3. Property and Funds of the University of Alaska (§ 14.40.400)
4. Community Colleges (§§ 14.40.560 — 14.40.640)

Opinions of attorney general. — The university is similar in all or most respects to other state executive agencies for purposes of budgeting and accounting; it does not have any peculiar status by virtue of being constitutionally established. February 28, 1977 Op. Att'y Gen.

The provisions of the Fiscal Procedures Act, AS 37.05, apply to the University of Alaska except for those provisions of AS 37.05.130, 37.05.170, 37.05.190 and 37.05.220 — 37.05.280 (now only 37.05.225 and 37.05.230) which are in conflict with this chapter. February 28, 1977 Op. Att'y Gen.

The university's budget can be made subject to line item appropriations by the legislature to the same extent that the budget for the rest of the executive branch of government is subject to line item appropriations. Similarly, the legislature can make appropriations to the university using different budget units than those requested by the Board of Regents to the

same extent that it can make appropriations for executive branch activities using different budget units than those requested by the governor. February 29, 1977 Op. Att'y Gen.

Collateral references. — Physical or mental illness as basis of dismissal of student. 17 ALR4th 519.

Off campus conduct, expulsion, suspension, or disciplinary action against students based on off campus misconduct. 28 ALR4th 463.

Privileged nature of statements by members of governing body of public institution of higher learning. 33 ALR4th 632.

What are educational institutions within state property tax exemption provisions. 34 ALR4th 688.

Validity of regulation of political or voter registration activity in student housing facilities. 39 ALR4th 1137.

What constitutes legitimate research justifying inspection of records not open to general public. 40 ALR4th 333.

Article 1. Establishment and Organization of the University of Alaska.

Section

10. University of Alaska
20. Site of university
30. Transfer of powers and duties of Agricultural College and School of Mines under Acts of Congress
40. General powers of the university
50. Discrimination because of sex, color or nationality prohibited
60. University curriculum
70. Collection of fossil remains authorized
75. Establishment of Alaska earthquake and volcanic hazards assessment project

Section

80. Establishment of institute of marine sciences
85. Establishment of Alaska State Climate Center
87. Alaska center for international business
88. Establishment of Institute for Circumpolar Health Studies
90. Correspondence courses for prospectors and miners
100. College extension service
110. Establishment of business, economics, and public administration research program
115. Establishment of mineral industry research program

Section

117. Establishment of Alaska Native language center

Collateral references. — 15A Am. Jur. 2d Colleges and Universities, §§ 1-10.

14 C.J.S. Colleges and Universities, §§ 1-7.

Determination of residence or nonresidence for purpose of admission to public college. 83 ALR2d 497; 56 ALR3d 641.

Liability of university, college or other school for failure to protect student from crime. 1 ALR4th 1099.

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.40.010. University of Alaska. The University of Alaska shall consist of the College of Agriculture, the School of Mines, the Department of Agricultural Experiment Station, the Department of Agricultural Extension Work, and other colleges and departments which may be established, including departments of anthropology, archaeology, ethnology, museum, natural history and palaeontology. (§ 37-10-1 ACLA 1949)

Cross references. — For the constitutional basis of the University of Alaska, see Alaska Const., art. VII, § 2.

Sec. 14.40.020. Site of university. The University of Alaska is the beneficiary under the provisions of the Act of Congress approved August 30, 1890, designating the Alaska Agricultural College and School of Mines as beneficiary and the four sections of land specified by the Act of Congress approved March 4, 1915, and used as a site for the Alaska Agricultural College and School of Mines are the site for the University of Alaska. (§ 37-10-9 ACLA 1949)

Sec. 14.40.030. Transfer of powers and duties of Agricultural College and School of Mines under Acts of Congress. All powers, duties and obligations devolving upon the Alaska Agricultural College and School of Mines in connection with or by reason of Acts of Congress, past or future, in relation to agricultural colleges and agricultural or mining experiment stations, extension work in agriculture and instruction and extension work in the mechanic arts granted to and imposed upon the Alaska Agricultural College and School of Mines are granted and conveyed to and imposed upon the University of Alaska, and beginning with the first day of July, 1935, the University of Alaska is designated to receive all money, appropriations and grants to the state for the purposes set forth in this chapter. The comptroller of the University of Alaska is designated and appointed to receive directly and to disburse all funds which the state is entitled to

receive under the Act of Congress of May 8, 1914 (38 Stat. 372), as amended by the Act of June 26, 1953 (67 Stat. 83; 7 U.S.C. 341 — 348). (§ 37-10-8 ACLA 1949; am § 1 ch 107 SLA 1957)

Sec. 14.40.040. General powers of the university. There is created and established a corporation to be called the University of Alaska. It may in that name

- (1) sue and be sued;
- (2) receive and hold real and personal property;
- (3) contract and be contracted with;
- (4) adopt, use and alter a corporate seal;
- (5) do and have done all matters necessary for the purpose of any function set forth in this chapter. (§ 37-10-2 ACLA 1949)

NOTES TO DECISIONS

The University of Alaska is a corporation which can sue and can be sued in its own name. *Wolfe v. O'Neill*, 336 F. Supp. 1255 (D. Alas. 1972).

The president of the University of Alaska, and the Board of Regents of the University of Alaska, as a body corporate, are not immune from suit brought under the provisions of the Civil Rights Act, 42 U.S.C. 1983. *Wolfe v. O'Neill*, 336 F. Supp. 1255 (D. Alas. 1972).

Such power would inhere regardless of statute. — As a constitutional corporation, owing its existence not to the legislature but to a charter from the ultimate sovereign, the will of the people of this state, the basic corporate power to sue and be sued in its own name would inhere in the University of Alaska regardless of the legislature's declaration in this section. *University of Alas. v. National Air-*

craft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2385), 536 P.2d 121 (1975).

But it does not detract from fact that University acts for state's benefit. — Neither the University's unique corporate character nor its power to sue and be sued in its own name detracted in any degree from what the supreme court considered most significant and controlling in a case to determine whether the University is an instrumentality of the state: that the University, in performing its constitutional functions, acts for the benefit of the state and of the public generally in the process of government; and that it was created to pursue the governmental task of providing education in accordance with an express mandate of the constitution, the fundamental and basic government of this state. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2385), 536 P.2d 121 (1975).

Sec. 14.40.050. Discrimination because of sex, color or nationality prohibited. No person shall be deprived of the privileges of the University of Alaska because of sex, color or nationality. (§§ 37-10-4(h), 37-10-24 ACLA 1949)

Cross references. — For additional provisions related to sex-based discrimination in education, see AS 14.18; for pro-

hibitions against discrimination generally, see AS 18.80.200 and 18.80.210.

NOTES TO DECISIONS

Cited in *Brown v. Wood*, Sup. Ct. Op.
No. 1551 (File Nos. 2564, 2565), 575 P.2d
760 (1978).

Sec. 14.40.060. University curriculum. The University of Alaska shall use the property and funds acquired for the purpose of conducting a college where the leading objects shall be, without excluding other scientific and classical studies and including military tactics, to teach branches of learning related to agriculture, the mechanic arts and household economics in order to promote a liberal and practical education. (§ 37-10-4(h) ACLA 1949)

Sec. 14.40.070. Collection of fossil remains authorized. The University of Alaska may collect and store the bones and other remains of the mammoth, mastodon, horse, bison and other fossil remains of these and other extinct animals found in the state in mining and other excavations. (§ 37-10-19 ACLA 1949)

Sec. 14.40.075. Establishment of Alaska earthquake and volcanic hazards assessment project. (a) The University of Alaska shall establish an Alaska earthquake and volcano hazards assessment project within the seismology program of the geophysical institute. The project shall

(1) collect, record, process, and archive seismic data on earthquakes and volcanic eruptions in the state;

(2) conduct seismological studies relating to earthquake and volcano hazards assessment;

(3) evaluate earthquake and volcanic seismic data to assist in the identification and assessment of earthquake and volcanic hazards that may pose a significant risk to lives and property in the state;

(4) inform public officials, industry, and private citizens of potential earthquake or volcanic risks and assist in planning to reduce risks to lives and property; and

(5) coordinate its activities with other organizations and agencies that monitor, collect, assess, and conduct research on earthquake and volcano hazards in order to avoid duplication of effort.

(b) The administration and management of the project are under a university employee designated the state seismologist. The state seismologist shall provide timely information concerning earthquake and volcano hazards to public officials, industry, and private citizens and serve as liaison to state and federal agencies in the event of emergencies due to seismic and volcanic activities. (§ 2 ch 36 SLA 1987)

Sec. 14.40.080. Establishment of institute of marine sciences. The University of Alaska may establish an institute of marine sciences to provide a program of education and research in physical, chemical, and biological oceanography, and related fields. When established, the institute of marine sciences shall be maintained and operated as an integral part of the University of Alaska, at one or more sites determined by the Board of Regents. The powers, duties, and functions of the Board of Regents pertaining to the University of Alaska extend to the institute of marine sciences in the same manner as to other departments or institutes of the university. (§§ 1, 2 ch 149 SLA 1960)

Sec. 14.40.085. Establishment of Alaska State Climate Center. (a) The University of Alaska shall establish an Alaska State Climate Center within an appropriate unit of the university. The administration and management of the center is under the direction of a university employee designated the "state climatologist."

(b) The Alaska State Climate Center shall

(1) prepare and update on a biennial basis a plan for the systematic acquisition and dissemination of climate-related information; the plan must include

(A) an assessment of weather and climate information needs in Alaska;

(B) a reasonable basis for setting priorities among these needs; and

(C) a program for coordinating the activities of all available sources of weather- and climate-related information sources in order to meet the highest priority needs and to carry out the provisions of this section;

(2) establish a state climate planning advisory group composed of at least three members from organizations that provide climate-related information, and at least three members from organizations that use climate-related information on a regular basis or from the general public;

(3) solicit and consider the advice and recommendations of the state climate planning advisory group in preparing and updating the biennial plan for acquisition and dissemination of climate-related information;

(4) operate and maintain a central repository and archive for reports, books, maps and other records, and publications relating to weather and climatological information;

(5) provide for public access to weather and climatological information and technical advisory services; and

(6) enter into cooperative agreements, on behalf of the state and the university, in order to achieve intergovernmental climate program participation by the United States and the state; these agreements

must be consistent with the provisions of the National Climate Program Act, 15 U.S.C. 2901 — 2908.

(c) The Alaska State Climate Center may

(1) investigate, describe, and interpret the characteristics of the weather and climate of the state, including their hazards and limitations;

(2) coordinate with state and federal agencies in matters concerning weather data acquisition, collection, integration, and storage;

(3) monitor federal weather-related activities to assure that the interests of the state are being served;

(4) conduct research activities on the availability of solar, wind, and water resources that assess the impact of climate fluctuations on these resources;

(5) publish bulletins, circulars, maps, or reports of the results of all research and investigations undertaken by the climate center, and distribute them to state agencies, government officials, industry, and the public;

(6) provide lectures, talks, displays, and exhibits on the climate of the state for the general education of the public; and

(7) enter into cooperative arrangements with local, state, and federal government agencies; foundations; universities; businesses; and other organizations engaged in climate-related research and services. (§ 2 ch 105 SLA 1981)

Sec. 14.40.087. Alaska center for international business.

(a) The University of Alaska shall establish an Alaska Center for International Business in an appropriate unit of the university at its Anchorage campus. The Board of Regents, after consultation with the governor, shall select for the center on a statewide basis an advisory board consisting of seven individuals who have demonstrated a strong interest in the development of business and economic relationships between the state and foreign countries. The advisory board, in consultation with the chancellor of the University of Alaska, Anchorage, shall select an executive director.

(b) The center, under the direction of the executive director,

(1) shall conduct research, including research on market information and market strategies relating to trade by businesses in the state with foreign nations, and, in particular, Asian nations; the research must include

(A) making assessments and projections of the potential of various markets for the state's natural resources and technical and informational resources;

(B) identifying and analyzing the import requirements of and trade barriers to current and future commodity sales in other nations;

(C) identifying the state's trade competitors and assessing the public policy and programs used by the competitors to foster trade with potential markets for the state's goods and services;

(D) developing marketing strategies relevant to the state's trade policies with other countries; and

(E) investigating foreign investment opportunities in the state;

(2) shall cooperate with and may enter into contracts with other state, federal, and municipal agencies, and private institutions, to maintain information relevant to the development of international trade and business relationships between the state and other nations of the world;

(3) shall encourage an understanding of culture, language, political and economic systems, social and legal systems, and other aspects of foreign countries, particularly in Asia;

(4) may charge fees for services provided by the center; the president of the University of Alaska shall separately account for all fees collected under this paragraph; the annual estimated balance in the account may be used by the legislature to make appropriations to the university to carry out the purposes of this section;

(5) may conduct instructional programs, publish and distribute public service and information materials, establish or participate in programs to encourage student participation or to provide benefits to students, and cooperate with other educational institutions.

(c) The university shall submit an annual report to the legislature on the center's activities. The report must include a summary of the center's revenue and expenditures during the preceding year.

(d) In this section, "center" means the Alaska Center for International Business, established by the University of Alaska under (a) of this section. (§ 2 ch 43 SLA 1987)

Postponed repeal. — Section 3, ch. 43, SLA 1987 repeals this section July 1, 1997.

findings in connection with the enactment of this section, see § 1, ch. 43, SLA 1987 in the Temporary and Special Acts.

Cross references. — For legislative

Sec. 14.40.088. Establishment of Institute for Circumpolar Health Studies. (a) The University of Alaska shall establish an Institute for Circumpolar Health Studies in an appropriate unit of the university at its Anchorage campus. The institute shall consist of a research and instruction branch and an administration and information branch.

(b) The institute shall

(1) encourage international cooperation, especially among circumpolar nations, with regard to research, studies, information, and instruction relating to circumpolar health issues;

(2) serve as a center for the collection and exchange of information and medical and health sciences data relating to circumpolar health issues;

(3) provide a mechanism for communication and cooperation between the university and the commissioner of health and social services in addressing the needs of Alaskans for health care services, opportunities for education in medical and health sciences, and other mutual concerns of the university and the department; and

(4) conduct research and provide instruction and other services consistent with the mission and goals of the University of Alaska. (§ 2 ch 136 SLA 1988)

Cross references. — For legislative findings, see sec. 1, ch. 136, SLA 1988 in the Temporary and Special Acts.

Effective dates. — Section 3, ch. 136,

SLA 1988, makes this section effective June 9, 1988, in accordance with AS 01.10.070(c).

Sec. 14.40.090. Correspondence courses for prospectors and miners. (a) The University of Alaska shall establish and offer to bona fide Alaska prospectors and miners in the state a correspondence course equal and parallel to the mining extension course being taught at present.

(b) The University of Alaska may establish the minimum charge necessary to defray costs of material, books and postage used in the course. (§§ 1, 2 ch 14 SLA 1957)

Sec. 14.40.100. College extension service. The Board of Regents may conduct a college extension service, the leading object of which is to carry information on rural life subjects to the people of the state. (§ 37-10-4(h) ACLA 1949)

Sec. 14.40.110. Establishment of business, economics, and public administration research program. The University of Alaska may establish a business, economics, and public administration research program for the purpose of developing and publishing statistics and other information regarding the economy, government, and resources of the state. (§ 1 ch 80 SLA 1961)

Sec. 14.40.115. Establishment of mineral industry research program. The University of Alaska shall establish a mineral industry research program and coordinate with state and federal mineral agencies to implement the program by

(1) using the laboratory facilities and staff of the College of Earth Sciences and Mineral Industry to initiate applied and appropriate basic research in the areas of mineral beneficiation, mine and mill design, new mineral product development, and improvement of exploration methods, such as geochemical and geophysical prospecting;

(2) making the facilities of the program available for research on mineral deposits in the state;

(3) making studies on specific problems relative to Alaska's mineral industry upon request. (§ 1 ch 32 SLA 1963)

Sec. 14.40.117. Establishment of Alaska Native language center. The University of Alaska shall establish an Alaska Native language center, the purposes of which are to:

(1) study languages native to Alaska;

(2) develop literacy materials;

(3) assist in the translation of important documents;

(4) provide for the development and dissemination of Alaska Native literature; and

(5) train Alaska Native language speakers to work as teachers and aides in bilingual classrooms. (§ 1 ch 175 SLA 1972)

Article 2. Board of Regents and President of the University of Alaska.

Section

120. University governed by Board of Regents

130. Qualifications of regents; special provisions relating to student regent

140. Term of office

150. Appointment of regents

Section

160. Board meetings public; meeting notice; public facilities

170. Duties of Board of Regents

175. Indemnification

180. Religious or partisan instruction, tests and appointments

190. Report to legislature

§ 14.40.120 COMPILED SCHOOL LAWS OF ALASKA § 14.40.130

Section

- 200. Quorum
- 210. Powers of president of the university
- 220. Duty of president to define duties and supervise appointees
- 230. Powers of regents to remove officers
- 240. Power of president to suspend and expel students

Section

- 250. Regents to act as trustees and administer money or property
- 255. Investment of surplus money
- 260. Expansion of courses
- 270. Extension of compliance acts

Collateral references. — 15A Am. Jur. 2d Colleges and Universities, §§ 11-16.

14 C.J.S. Colleges and Universities, §§ 16-19.

Power of school authorities to employ physicians, nurses, oculists, and dentists. 12 ALR 922.

Mandamus to compel enrollment or restoration of pupil in state school or university. 39 ALR 1019.

Student's right to compel school officials to issue degree, diploma, or the like. 11 ALR4th 1182.

Sec. 14.40.120. University governed by Board of Regents. The University of Alaska shall be governed by a Board of Regents consisting of 11 regents. (§ 37-10-3 ACLA 1949; am § 1 ch 80 SLA 1973; am § 1 ch 168 SLA 1975)

Sec. 14.40.130. Qualifications of regents; special provisions relating to student regent. (a) Each regent shall be a citizen of the United States and a resident of the state.

(b) In addition to satisfying the requirements of (a) of this section, the regent appointed under AS 14.40.150(b) must

(1) be enrolled as a full-time student at the University of Alaska at the time of appointment;

(2) remain a full-time student while serving.

(c) Failure of the regent appointed under AS 14.40.150(b) to remain enrolled as a full-time student at the University of Alaska during the term for which the regent was appointed results in forfeiture of that office.

(d) The governor shall appoint a successor from those students appearing upon the list of nominees submitted under AS 14.40.150(b) within 60 days of a forfeiture or vacancy in the office.

(e) For purposes of this section, the term "full-time student" is defined as provided in the University of Alaska Academic Regulations. (§ 37-10-3 ACLA 1949; am § 1 ch 13 SLA 1977)

Opinions of attorney general. — Membership on the Board of Regents by a governor, legislator or judge offends the

prohibition against dual office holding. December 27, 1976 Op. Att'y Gen.

Sec. 14.40.140. Term of office. Except for a student regent as specified in AS 14.40.150(b), the term of office of a regent is eight years. The term of office begins on the first Monday in February of the year in which the appointment is made. Each regent serves until a successor is appointed and qualifies. (§ 37-10-3 ACLA 1949; am § 2 ch 80 SLA 1973)

Sec. 14.40.150. Appointment of regents. (a) The governor shall appoint the regents subject to confirmation by a majority of all the members of the legislature in joint session. The names of those appointed shall be sent to the legislature within five days after the opening of the session, for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after the rejection. If the legislature adjourns without confirming the nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.

(b) At least one member of the Board of Regents must be a student. The student shall be appointed from a list of nominees submitted to the governor. The governor shall make the appointment from the list within 60 days after it is submitted. The list shall consist of the names of two students from each campus of the University of Alaska after an election is held at each campus. Elections shall be conducted under rules established by the Office of the Governor. The term of office of the regent appointed from the general student body, University of Alaska, is for two years. The term of office begins June 1 of the year in which the appointment is made. An appointment made under AS 14.40.130(d) shall be for the unexpired term of the original appointee. The term "campus" used in this subsection means a portion of the University of Alaska designated as a "campus" by the Board of Regents. (§ 37-10-3 ACLA 1949; am § 3 ch 80 SLA 1973; am § 2 ch 13 SLA 1977; am § 1 ch 3 SLA 1987)

Cross references. — For a transitional provision related to the 1987 amendment to (b) of this section, see § 2, ch. 3, SLA 1987 in the Temporary Special Act.

Effect of amendments. — The 1987 amendment added the seventh sentence of subsection (b).

Sec. 14.40.160. Board meetings public; meeting notice; public facilities. (a) The provisions of AS 44.62.310 apply to meetings of the Board of Regents. All meetings of the board, its committees or subcommittees, are open to the public and press except as otherwise provided in AS 44.62.310(c). The findings of an executive session shall be made a part of the record of the proceedings of the Board of Regents.

All records of the meetings and proceedings shall be open to inspection by the public and the press at reasonable times.

(b) The Board of Regents may determine the time and place of its meetings. However, 30 days notice is required for all regular meetings and 10 days notice is required for special meetings of the Board of Regents, its committees or subcommittees called under the bylaws or rules or procedure of the Board of Regents. Emergency meetings may be called without notice.

(c) The Board of Regents shall provide adequate facilities for members of the public to attend the meetings of the board, its committees or subcommittees. (§ 37-10-5 ACLA 1949; am § 1 ch 100 SLA 1972; am § 30 ch 59 SLA 1982)

Legislative history reports. — For report on ch. 100, SLA 1972 (CSHB 605 am), see 1972 House Journal, p. 643.

NOTES TO DECISIONS

Applicability of section. — This section applies only to the Board of Regents and not to the local tenure committee for the University of Alaska at Anchorage. *University of Alaska v. Geistauts*, Sup.

Ct. Op. No. 2691 (File Nos. 6749, 6771), 666 P.2d 424 (1983).

Applied in *Alaska Community Colleges' Fed'n of Teachers, Local 2404 v. University of Alaska*, Sup. Ct. Op. No. 2779 (File No. 6676), 677 P.2d 886 (1984).

Sec. 14.40.170. Duties of Board of Regents. (a) The Board of Regents shall

- (1) appoint the president of the university by a majority vote of the whole board, and the president may attend meetings of the board;
- (2) fix the compensation of the president of the university, all heads of departments, professors, teachers, instructors and other officers;
- (3) confer such appropriate degrees as it may determine and prescribe;
- (4) have the care, control and management of
 - (A) all the real and personal property of the university; and
 - (B) land conveyed to the Board of Regents by the commissioner of natural resources in the settlement of the claim of the University of Alaska to land granted to the state in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended and in accordance with the Act of January 21, 1929 (45 Stat. 1091) as amended;
- (5) keep a correct and easily understood record of the minutes of every meeting and all acts done by it in pursuance of its duties;
- (6) under procedures to be established by the commissioner of administration, and in accordance with existing procedures for other state agencies, have the care, control, and management of all money of the university and keep a complete record of all money received and disbursed;

(7) adopt reasonable rules for the prudent trust management and the long-term financial benefit to the university of the land of the university;

(8) provide public notice of sales, leases, exchanges and transfers of the land of the university or of interests in land of the university;

(9) report each year within the first 10 days of the convening of a regular session of the legislature on the expenditures made during the preceding fiscal year from the funds of the University of Alaska that are derived from sales, leases, exchanges, or transfers of the land of the university or of interests in land of the university that were conveyed to the University of Alaska in settlement of the claim of the University of Alaska to land granted to the state in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended.

(b) The Board of Regents may

(1) adopt reasonable rules, orders and plans with reasonable penalties for the good government of the university and for the regulation of the Board of Regents;

(2) determine and regulate the course of instruction in the university with the advice of the president;

(3) set student tuition and fees;

(4) receive and spend university receipts in accordance with the Executive Budget Act (AS 37.07). (§ 37-10-6 ACLA 1949; am §§ 1, 2 ch 46 SLA 1977; am §§ 4, 5 ch 22 SLA 1983; am § 1 ch 143 SLA 1986)

Cross references. — For provisions related to the transfer of land from the commissioner of natural resources to the board of regents, see §§ 1-3 and 7-9, ch. 22, SLA 1983, in the Temporary and Special Acts; for duties of board related to sex-based discrimination, see AS 14.18.060.

Effect of amendments. — The 1983 amendment, in paragraph (a)(4), added the (A) designation, added "and" to the

end of (A), and added (B). The amendment also added paragraphs (7), (8) and (9) to subsection (a).

The 1986 amendment added paragraphs (3) and (4) of subsection (b) and made other, minor punctuation changes.

Legislative history reports. — For letter of intent on ch. 46, SLA 1977 (HCSSB 261), see 1977 House Journal, p. 1019.

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Stated in *State v. University of Alaska*,

Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981).

Cited in *Wolfe v. O'Neill*, 336 F. Supp. 1255 (D. Alas. 1972); *Carter v. Alaska Pub. Employees Ass'n*, Sup. Ct. Op. No. 2657 (File No. 6586), 683 P.2d 916 (1983).

Collateral references. — Regulation as to fraternities and similar associations connected with educational institution. 10 ALR3d 389.

Student organization registration state-

ment, filed with public school or state university or college, as open to inspection by public. 37 ALR3d 1311.

Liability of college or university to student enrolled in course of instruction ter-

§ 14.40.175 COMPILED SCHOOL LAWS OF ALASKA § 14.40.180

minated prior to completion. 51 ALR3d 1003.

Validity of regulation of college or uni-

versity denying or restricting right of student to receive visitors in dormitory. 78 ALR3d 1109.

Sec. 14.40.175. Indemnification. The Board of Regents shall insure or indemnify and protect the Board of Regents, any member of the Board of Regents, or any agent or employee of the University of Alaska or of the Board of Regents against financial loss and expense, including reasonable legal fees and costs arising out of any claim, demand, suit or judgment by reason of alleged negligence, alleged violation of civil rights or alleged wrongful act resulting in death or bodily injury to any person or accidental damage to or destruction of property, inside or outside the university premises, if the Board of Regents member, agent or employee, at the time of the occurrence, was acting under the direction of the Board of Regents within the course or scope of the duties of the member, agent, or employee. (§ 3 ch 148 SLA 1978)

Collateral references. — Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Tort liability of public schools and institutions of higher learning for accident occurring during school athletic events. 35 ALR3d 725.

Tort liability of public schools and institutions of higher learning for injuries caused by acts of fellow students. 36 ALR3d 330.

Tort liability of public schools and institutions of higher learning for accidents occurring in physical education classes. 36 ALR3d 361.

Tort liability of public schools and institutions of higher learning for accidents occurring during use of premises and equip-

ment for other than school purposes. 37 ALR3d 712.

Tort liability of public schools and institutions of higher learning for injuries due to condition of grounds, walks, and playgrounds. 37 ALR3d 738.

Immunity of private schools and institutions of higher learning from liability in tort. 38 ALR3d 480.

Tort liability of public schools and institutions of higher learning for injuries resulting from lack or insufficiency of supervision. 38 ALR3d 830.

Liability of university, college, or other school for failure to protect student from crime. 1 ALR4th 1099.

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.40.180. Religious or partisan instruction, tests and appointments. No instruction either sectarian in religion or partisan in politics shall be permitted in any department of the University of Alaska and no sectarian or partisan test shall be allowed or exercised in the appointment of regents, instructors, or other officers of the University of Alaska or in the admission of students or for any purpose. (§ 37-10-6 ACLA 1949)

Collateral references. — Validity of governmental requirement of oath of alle-

giance or loyalty as applied to college curators. 18 ALR2d 303.

§ 14.40.190 COMPILED SCHOOL LAWS OF ALASKA § 14.40.210

Sec. 14.40.190. Report to legislature. The Board of Regents shall make a written report to the legislature at the beginning of its regular sessions of the condition of the university property, of all receipts and expenditures, including but not limited to the administration and disposition of appropriated and restricted funds, and of the educational and other work performed. (§ 37-10-6 ACLA 1949; am § 1 ch 37 SLA 1976)

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.200. Quorum. Corporate business may not be transacted at any meeting of the Board of Regents unless at least six regents are present, the majority of the whole board to approve the same. (§ 37-10-6 ACLA 1949; am § 2 ch 168 SLA 1975)

Sec. 14.40.210. Powers of president of the university. (a) The president of the University of Alaska may

(1) give general direction to the work of the University of Alaska in all its departments subject to the approval of the Board of Regents;

(2) appoint the deans, heads of departments, professors, assistants, instructors, tutors, and other officers of the University of Alaska to the positions established by the Board of Regents;

(3) establish procedures for receipt, expenditure, and fiscal year reporting of university receipts.

(b) The president of the University of Alaska shall separately account for university receipts deposited in the treasury of the university. The annual estimated balance in the account may be used by the legislature to make appropriations to the university to carry out the purposes of this chapter. (§ 37-10-7 ACLA 1949; am § 1 ch 58 SLA 1957; am § 22 ch 138 SLA 1986; am § 2 ch 143 SLA 1986)

Effect of amendments. — The first paragraph (3) of subsection (a) and made 1986 amendment added subsection (b). other, minor punctuation changes.
The second 1986 amendment added

NOTES TO DECISIONS

Cited in *Carter v. Alaska Pub. Employees Ass'n*, Sup. Ct. Op. No. 2657 (File No. 6586), 663 P.2d 916 (1983).

Collateral references. — Construction and effect of tenure provisions of contract or statute governing employment of college or university faculty member. 66 ALR3d 1018.

Sec. 14.40.220. Duty of president to define duties and supervise appointees. The president shall define the duties and supervise the performance of those persons who are appointed by the president to positions established by the Board of Regents. (§ 37-10-7 ACLA 1949; am § 1 ch 58 SLA 1957)

NOTES TO DECISIONS

Cited in *Wolfe v. O'Neill*, 336 F. Supp. 1255 (D. Alaska, 1972).

Sec. 14.40.230. Powers of regents to remove officers. The Board of Regents may remove from office any officer of the University of Alaska by a majority vote of the whole board when in its judgment the good of the university requires it. (§ 37-10-7 ACLA 1949; am § 1 ch 58 SLA 1957)

Sec. 14.40.240. Power of president to suspend and expel students. The power to suspend and expel a student for misconduct or other cause and to reinstate the student is vested solely in the president of the University of Alaska. (§ 37-10-7 ACLA 1949; am § 1 ch 58 SLA 1957)

Collateral references. — Expulsion or suspension from private school or college. 50 ALR 1497.

Participation of student in demonstration on or near campus as warranting imposition of criminal liability for breach of peace, disorderly conduct, trespass, un-

lawful assembly, or similar offense. 32 ALR3d 551.

Participation of student in demonstration on or near campus as warranting expulsion or suspension from school or college. 32 ALR3d 864.

Sec. 14.40.250. Regents to act as trustees and administer money or property. The Board of Regents may receive, manage, and invest money or other real, personal, or mixed property for the purpose of the University of Alaska, its improvement or adornment, or the aid or advantage of students or faculty, and, in general, may act as trustee on behalf of the University of Alaska for any of these purposes. The regents shall make a written report to the legislature, in accordance with AS 14.40.190, as to the administration and disposition of money received under this section. (§ 37.10.20 ACLA 1949; am § 2 ch 37 SLA 1976; am § 3 ch 143 SLA 1986)

Effect of amendments. — The 1986 amendment in the first sentence inserted a comma following "personal" and deleted "in any manner received from sources other than the state legislature or federal

appropriation" following "mixed property" and in the second sentence substituted "The" for "However, the" and "money" for "funds."

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.255. Investment of surplus money. If the Board of Regents determines that there is a surplus of money, received in the form of state and federal appropriations, above the amount sufficient to meet current and projected cash expenditure needs of the university, the surplus must be invested as set out in AS 37.10.071. Income earned on investments made under this section may be retained by the university and expended in accordance with the Executive Budget Act (AS 37.07). (§ 4 ch 143 SLA 1986; am § 5 ch 141 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 9, 1988, substituted "as set out in AS 37.10.071" for "in the same instruments set out in AS 37.10.070 approved for investment of state treasury surplus" in the first sentence and deleted "Interest" at the beginning of the second sentence.

Sec. 14.40.260. Expansion of courses. To expand educational and cultural opportunities in the state, to keep pace with the expansion of the state in other fields, and to provide educational facilities of particular interest to residents of the state, the Board of Regents shall

- (1) make a study of the principles and applicability of the junior college to the state;
- (2) establish additional extension courses and such other expansion of accredited courses for students as it considers advisable;
- (3) provide facilities suitable for carrying out a university program;
- (4) employ personnel;
- (5) procure supplies;
- (6) take all other appropriate measures to carry out the intent and purpose set forth in this section; and
- (7) develop and offer at one or more of the senior college or community college campuses a continuing professional education program for architects, engineers, building officials, and officers and employees of financial institutions on alternative energy systems and on energy conservation and solar design and construction methods applicable to the state. (§§ 1 — 3 ch 58 SLA 1951; am § 2 ch 83 SLA 1980)

Sec. 14.40.270. Extension of compliance acts. Laws of the state designed to meet requirements of the United States government for the state's acceptance of federal grants and allotments for educational and kindred purposes are extended to cover the establishment and operation of the university expansion program set forth in AS 14.40.260. (§ 4 ch 58 SLA 1951)

Article 3. Property and Funds of the University of Alaska.

Section	Section
280. Endowments and donations	College and School of Mines
282. Endowment for the physical sciences	reaccepted for university
290. Property and funds generally	400. Fund for money from sale or lease of
291. Land of the University of Alaska not	land granted by Act of Congress
public domain land	410. Federal grants of money to establish
296. Working capital reserve fund	agricultural experiment stations
300. Creation and appointment of comp-	420. University designated as beneficiary
troller	under Hatch Act and empowered to
310. Fiscal year	establish Agricultural Experiment
325. Reallocation within state appropria-	Station
tions	430. Acceptance of federal appropriation
330. Inventory of property	for agricultural extension work
350. Board of Regents authorized to lease	440. University designated beneficiary of
land	Smith-Lever Act and empowered to
360. Board of Regents authorized to select	carry on agricultural extension
and to sell or lease land granted by	work
Act of Congress	450. Governor authorized to make certifi-
380. Assent of legislature to federal land	cates to obtain federal grants of
and money grants	money
390. Federal land grants to Agricultural	455. University risk management fund
	491. Definition of university receipts

Collateral references. — 15A Am. 14 C.J.S. Colleges and Universities,
 Jur. 2d Colleges and Universities, §§ 10-14.
 §§ 32-37.

Sec. 14.40.280. Endowments and donations. All monetary gifts, bequests or endowments which are made to the University of Alaska for the purpose of the separate trust fund created under AS 14.40.400 shall be transferred to the Department of Revenue. The Department of Revenue shall manage that money in accordance with AS 14.40.400. Title to and control or possession of land, personal property, and all money other than that transferred to the Department of Revenue, which is devised, bequeathed or given to the university shall be taken by the university in its corporate capacity acting by and through the regents or an authorized agent, and shall be entered in the perpetual inventory of the university. (§ 5 ch 58 SLA 1951; am § 1 ch 164 SLA 1976)

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1156 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.282. Endowment for the physical sciences. (a) The Board of Regents shall establish an endowment for the physical sciences at the University of Alaska campus in Fairbanks. The endowment shall be managed as a perpetual trust. The income of the endowment shall be used to pay the salary and related expenses of the person appointed under (b) of this section for research, teaching, and advanced studies in one or more physical science disciplines.

(b) The Board of Regents shall appoint a person who is distinguished in one or more physical science disciplines to be paid from the endowment for the physical sciences. The tenure and the duties of the appointee shall be established by the Board of Regents based on the need for

(1) teaching, research, and studies in physical sciences of special interest in the state; and

(2) advancement of scientific study at the University of Alaska.
(§ 1 ch 71 SLA 1983)

Sec. 14.40.290. Property and funds generally. (a) The University of Alaska shall hold all property acquired by it. The Department of Administration, upon requisitions by the Board of Regents signed by its president and secretary, shall pay to the treasurer of the Board of Regents all federal land grant college funds coming into the possession of the Department of Administration and subject to requisition by the Board of Regents and shall disburse federal funds in aid of land grant colleges in accordance with the federal statute providing for disbursement.

(b) *[Repealed, § 10 ch 46 SLA 1977.]*

(c) *[Repealed, § 1 ch 38 SLA 1968.]* (§ 37-10-4(a) — (c) ACLA 1949; am § 1 ch 38 SLA 1968; am § 10 ch 46 SLA 1977)

Cross references. — For provisions authorizing the Department of Administration to make advances to the University of Alaska, see AS 37.10.088.

Sec. 14.40.291. Land of the University of Alaska not public domain land. Notwithstanding any other provision of law, university-grant land, state replacement land that becomes university-grant land on conveyance to the university, and any other land owned by the University of Alaska is not and may not be treated as state public domain land. Title or interest to land described in this section may not be acquired by adverse possession, prescription, or in any other manner except by conveyance from the university. The land is subject to condemnation for public purpose in accordance with law. (§ 6 ch 22 SLA 1983)

§ 14.40.295 COMPILED SCHOOL LAWS OF ALASKA § 14.40.330

Sec. 14.40.295. Working capital reserve fund. [Repealed, § 10 ch 46 SLA 1977.]

Sec. 14.40.296. Working capital reserve fund. (a) There is established in the treasury of the University of Alaska the University of Alaska working capital reserve fund. The fund consists of money appropriated by the legislature for the purpose of providing nonlapsing current working capital for the University of Alaska and is not available for appropriation by the Board of Regents.

(b) A quarterly report of the activity of the working capital reserve fund shall be submitted by the University of Alaska to the Legislative Budget and Audit Committee. (§ 1 ch 117 SLA 1980)

Sec. 14.40.300. Creation and appointment of comptroller. The Board of Regents shall create the office of comptroller of the university, fix the salary and determine the duties of the office. The Board of Regents shall fill the office. The comptroller shall report directly to the Board of Regents. (§ 37-10-4(d) ACLA 1949; am § 3 ch 46 SLA 1977)

Legislative history reports. — For (HCSSB 261), see 1977 House Journal, p. letter of intent on ch. 46, SLA 1977 1019.

Sec. 14.40.310. Fiscal year. The fiscal year of the University of Alaska begins on July 1 and closes at midnight on the following June 30. (§ 37-10-4(e) ACLA 1949; am § 3 art VI ch 82 SLA 1955)

Sec. 14.40.320. Requisitions on funds. [Repealed, § 10 ch 46 SLA 1977.]

Sec. 14.40.325. Reallocation within state appropriations. Notwithstanding the provisions of AS 37.07.080(e), each appropriation to the University of Alaska is subject to reallocation by the university administration under procedures established by the Board of Regents and the division of budget review in the Office of the Governor. Transfers may not be made between appropriations except as provided in an Act making transfers between appropriations. (§ 5 ch 143 SLA 1986)

Sec. 14.40.330. Inventory of property. The Board of Regents shall maintain or cause to be maintained a perpetual inventory of all permanent property of the University of Alaska. (§ 37-10-4(g) ACLA 1949; am § 2 ch 38 SLA 1968)

§ 14.40.340 COMPILED SCHOOL LAWS OF ALASKA § 14.40.370

Sec. 14.40.340. Applicability of bid practices to University of Alaska. [Repealed, § 67 ch 106 SLA 1986. For current law, see AS 36.30.005(c).]

Sec. 14.40.350. Board of Regents authorized to lease land. The Board of Regents may execute leases for mining, agriculture, or other purposes to the land granted for the benefit of an agricultural college and school of mines for Alaska by the Act of Congress approved March 4, 1915, for such time and at such rent or royalty as may seem just and as provided by law. (§ 37-10-11 ACLA 1949)

Opinions of attorney general. — The restrictive clause in the federal grant (see 48 USC § 354) dated March 4, 1915, of lands for the site of the present university states that this land must be used as a site for an agricultural college and school of mines. 1962 Op. Att'y Gen. No. 21.

There appears to be no conflict with this required use by leasing, as is authorized by law, a portion of this land to a corporation for a definite period of time to provide

a service which contributes to the required use. 1962 Op. Att'y Gen. No. 21.

Hence, there does not appear to be any violation in fact or in spirit of the restrictive clause in the federal grant by the lease of site lands to the University of Alaska Heating Corporation for the purpose of erecting a steam plant to serve the University of Alaska. 1962 Op. Att'y Gen. No. 21.

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.360. Board of Regents authorized to select and to sell or lease land granted by Act of Congress. The Board of Regents may select the land granted to Alaska by the Act of Congress approved January 21, 1929, and may sell or lease the land and deposit the proceeds in the state treasury in conformity with that Act. (§ 37-10-13 ACLA 1949)

Opinions of attorney general. — See notes under this heading following AS 14.40.350.

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.370. Books of account and statement of trust funds. [Repealed, § 10 ch 46 SLA 1977.]

Sec. 14.40.380. Assent of legislature to federal land and money grants. The state assents to the provisions and accepts the benefits of the Act of Congress approved March 4, 1915, and the Acts of Congress approved August 30, 1890, and March 4, 1906, in behalf of the University of Alaska, and the commissioner of revenue is designated as the officer to whom the money shall be paid. (§ 37-10-10 ACLA 1949)

Sec. 14.40.390. Federal land grants to Agricultural College and School of Mines reaccepted for university. The state assents to the provisions and accepts the benefits of the grants of land authorized by the Act of Congress of January 21, 1929, 45 Stat. 1091 — 1093, as amended by the Act of Congress of September 19, 1966, 80 Stat. 811, for the Agricultural College and School of Mines as integral parts of the University of Alaska, and the University of Alaska is designated the beneficiary under that Act. (§ 37-10-12 ACLA 1949; am § 1 ch 68 SLA 1967)

NOTES TO DECISIONS

Inclusion of the University of Alaska lands in Chugach State Park without paying compensation to the university violated the trust provision of the federal grant. *State v. University of Alaska*, Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981).

Sec. 14.40.400. Fund for money from sale or lease of land granted by Act of Congress. (a) The Department of Revenue shall establish a separate endowment trust fund in which all net income derived from the sale or lease of the land granted under the Act of Congress approved January 21, 1929, and in which all monetary gifts, bequests or endowments made to the University of Alaska for the purpose of the fund, shall be held in trust.

(b) The commissioner of revenue is the fiduciary of the trust fund and shall account for and invest the fund as set out in AS 37.14.110(c), 37.14.160, and 37.14.170, except that the commissioner shall report the condition and investment performance of the fund to the Board of Regents.

(c) The net income from the trust fund shall be used exclusively for the Agricultural College and School of Mines.

(d) No part of the proceeds arising from the sale or disposal of land under this grant may be used for the support of a sectarian or denominational college or school.

(e) The Department of Administration shall disburse the net income from the trust fund upon vouchers approved by the president and treasurer of the University of Alaska specifying the purpose for which the money is to be used and showing it is to be used in conformity with this section. (§ 37-10-14 ACLA 1949; am § 2 ch 68 SLA 1967; am § 2 ch 164 SLA 1976; am §§ 6 — 9 ch 141 SLA 1988)

§ 14.40.410 COMPILED SCHOOL LAWS OF ALASKA § 14.40.430

Effect of amendments. — The 1988 amendment, effective June 9, 1988, substituted "endowment trust fund in which all net income" for "fund in which all money" in subsection (a), repealed and re-

enacted subsection (b), which read "The trust fund shall be invested in interest-bearing securities as approved by the governor," and inserted "net" in subsections (c) and (e).

Opinions of attorney general. — Under this section a separate permanent fund was established for revenues from the sale of federally granted lands. 1963 Op. Att'y Gen. No. 13.

In investing the endowment funds of the University of Alaska, the commissioner of revenue can obtain some guidance through observing the type of investments made throughout the United States by those responsible for the investment of university endowment funds. 1963 Op. Att'y Gen. No. 13.

The prudent-man rule is the proper rule for guiding the commissioner of revenue in the investment of the university's permanent fund. 1963 Op. Att'y Gen. No. 13.

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Stated in *State v. University of Alaska*, Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981).

Sec. 14.40.410. Federal grants of money to establish agricultural experiment stations. The state assents to the provisions and accepts the benefits of the Act of Congress entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an Act approved July 2, 1862, and of the Acts supplementary thereto" approved March 2, 1887, as amended and supplemented and known as the Hatch Act, and extended to Alaska by an Act of Congress entitled "An Act to extend the benefits of the Hatch Act and the Smith-Lever Act to the Territory of Alaska," approved February 23, 1929, in behalf of the University of Alaska, except that no substations may be established by the Board of Regents except by direct authority of the legislature. The commissioner of revenue is designated as the officer to whom the money shall be paid. (§ 37-10-15 ACLA 1949)

Cross references. — For Hatch Act, see 7 U.S.C. 361a-361i; for Smith-Lever Act, see 7 U.S.C. 341-349.

Sec. 14.40.420. University designated as beneficiary under Hatch Act and empowered to establish Agricultural Experiment Station. The University of Alaska is designated as the beneficiary under the provisions of the Hatch Act and may establish a department to be known as the Agricultural Experiment Station. (§ 37-10-16 ACLA 1949)

Cross references. — See the cross reference under AS 14.40.410.

Sec. 14.40.430. Acceptance of federal appropriation for agricultural extension work. The state assents to the provisions and accepts the benefits of the Act of Congress entitled "An Act to provide for cooperative extension work between agricultural colleges in the United States receiving the benefits of an Act of Congress approved

§ 14.40.440 COMPILED SCHOOL LAWS OF ALASKA § 14.40.455

July 2, 1862, and of Acts supplementary thereto and the United States Department of Agriculture" approved May 8, 1914, as amended and supplemented and known as the Smith-Lever Act and extended to Alaska by an Act of Congress entitled "An Act to extend the benefits of the Hatch Act and the Smith-Lever Act to the Territory of Alaska" approved February 23, 1929, in behalf of the University of Alaska. The commissioner of revenue is designated as the officer to whom the appropriations shall be paid. (§ 37-10-17 ACLA 1949)

Cross references. — See the cross reference under AS 14.40.410.

Sec. 14.40.440. University designated beneficiary of Smith-Lever Act and empowered to carry on agricultural extension work. The University of Alaska is designated as the beneficiary under the provisions of the Smith-Lever Act, and may administer and carry on agricultural extension work in the state in cooperation with the United States Department of Agriculture. (§ 37-10-18 ACLA 1949)

Cross references. — See the cross reference under AS 14.40.410.

Sec. 14.40.450. Governor authorized to make certificates to obtain federal grants of money. The governor is authorized to make all certificates required by law or the regulations of the Department of Agriculture or of the Department of the Interior necessary to be made to entitle the state to grants of money for the benefits of state colleges of agriculture and mechanic arts authorized under any Act of Congress. (§ 37-10-21 ACLA 1949)

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.455. University risk management fund. (a) There is established in the general fund the University of Alaska risk management fund. The fund consists of money appropriated by the legislature for the purpose of providing a nonlapsing collateral fund for payment of uninsured losses of the University of Alaska in excess of preestablished loss assumption levels.

(b) The fund may be used only for the purposes of making payments as a result of

- (1) civil suits;
- (2) claims, damages, or losses to real and personal property owned by or in the actual or constructive possession of the University of Alaska;

(3) losses of income from real and personal property; and

(4) expenses, attorney fees, and claims investigation costs associated with claims or losses.

(c) The legislature may appropriate into the fund earnings derived from temporary investment of collateral fund assets, recoveries of losses previously charged to the fund, and restoration of funds utilized for specified claims. The amount of the fund may not exceed the amount necessary and prudent based on independent actuarial determinations. The University of Alaska may request that University of Alaska funds be deposited into the risk management collateral fund under AS 37.07.080(h).

(d) The Department of Administration and the University of Alaska shall determine the loss assumption levels at the beginning of each fiscal year for the purpose of assessing the risk management collateral fund. The loss assumption levels shall be established at the amount necessary and prudent based on independent actuarial determinations.

(e) An annual report of the activity of the fund and loss assumption levels shall be submitted by the Department of Administration to the Office of Management and Budget and the Legislative Budget and Audit Committee. (§ 6 ch 143 SLA 1986)

Secs. 14.40.460 — 14.40.490. [Renumbered as AS 14.43.010 — 14.43.025.]

Sec. 14.40.491. Definition of university receipts. In AS 14.40.120 — 14.40.491, "university receipts" includes

(1) student fees, including tuition;

(2) receipts from university auxiliary services;

(3) recovery of indirect costs of university activities;

(4) receipts from sales and rentals of university property;

(5) federal receipts;

(6) gifts, grants, and contracts; and

(7) receipts from sales, rentals, and the provision of services of educational activities. (§ 23 ch 138 SLA 1986; § 7 ch 143 SLA 1986)

Revisor's notes. — Formerly AS 14.40.490. Renumbered in 1987.

Section 23, ch. 138, SLA 1986, and § 7, ch. 143, SLA 1986, both enacted a defini-

tion of "university receipts." The definitions were substantially the same. The text set out above is the language enacted in § 23, ch. 138, SLA 1986.

Secs. 14.40.510 — 14.40.550. [Renumbered as AS 14.43.050 — 14.43.075.]

Article 4. Community Colleges.

Section

560. Authority to cooperate
570. Authority of board
580. Use of joint facilities
590. Director
600. Regulations

Section

610. Disposition of income
620. Savings clause
630. Definitions
640. Short title

Sec. 14.40.560. Authority to cooperate. A qualified school district or political subdivision may make an agreement with the University of Alaska for the establishment, operation, and maintenance of a community college. A qualified school district or qualified political subdivision shall pay all instructional and administrative costs for nondegree college programs and activities offered. (§ 3 ch 75 SLA 1962)

Sec. 14.40.570. Authority of board. (a) Since academic education beyond the high school level is a statewide responsibility, the board, in its discretion and as the need arises, may cooperate with the federal government and qualified school districts and political subdivisions in the establishment of appropriate higher educational programs and activities. The board is responsible for the selection of all community college instructors, part and full-time, for the academic degree programs and activities, and shall pay all instructional and administrative costs, including cost of special equipment and instructional materials, for academic degree programs and activities offered.

(b) Selected upper division and graduate level courses of instruction, offered by the university through its off-campus instructional program to meet local needs, may be coordinated through the office of the director of a community college. (§ 4 ch 75 SLA 1962)

Sec. 14.40.580. Use of joint facilities. (a) If facilities used by the community college are owned by the school district or political subdivision, the board, subject to availability of appropriated funds, may reimburse the school district for all expenses directly related to facilities for academic degree programs and activities. The school district or political subdivision shall bear all expenses directly related to nondegree programs and activities.

(b) If separate facilities are financed, constructed, or maintained from federal, state, or private funds for either academic degree or nonacademic degree programs and activities of the community college, then the board has title to and control of the separate facilities used for these purposes. If separate facilities are financed, con-

structed, or maintained from school district or political subdivision funds for either degree or nondegree programs and activities, the school district or political subdivision has title to and control of the separate facilities used for these purposes. (§ 5 ch 75 SLA 1962)

Sec. 14.40.590. Director. The administrative head of a community college established by the University of Alaska in cooperation with school districts or political subdivisions is a director. The director shall be selected by the board, subject to approval by the governing body of the school district or political subdivision. (§ 6 ch 75 SLA 1962)

Sec. 14.40.600. Regulations. A community college established by the university in cooperation with school districts or political subdivisions shall be established, maintained, and operated under rules and regulations adopted by the board. The selection and academic qualifications for personnel and the curriculum of a community college, insofar as it pertains to academic degree programs and activities, is the responsibility of the board. The selection and qualifications of personnel for nondegree programs and activities of the community college are the responsibility of the governing body of the school district or political subdivision. (§ 7 ch 75 SLA 1962)

Sec. 14.40.610. Disposition of income. (a) All money, including tuition and fees received before or after April 10, 1962, from the operations of a community college established, operated, and maintained under AS 14.40.560 — 14.40.640 and directly related or attributable to academic degree programs and activities, shall be placed in the community college fund of the University of Alaska.

(b) All money, including tuition and fees received before or after April 10, 1962, from the operations of a community college established, operated and maintained under AS 14.40.560 — 14.40.640 and directly related or attributable to nondegree programs and activities of the community college, shall be placed in the appropriate fund of the qualified school district or political subdivision cooperating with the university in the establishment of the community college. (§ 8 ch 75 SLA 1962)

Sec. 14.40.620. Savings clause. An agreement between the University of Alaska and a community college in effect on April 10, 1962, shall remain in effect until its agreed expiration unless, before the agreed expiration, it is mutually cancelled or modified by the contracting parties. (§ 10 ch 75 SLA 1962)

§ 14.40.630 COMPILED SCHOOL LAWS OF ALASKA § 14.40.919

Sec. 14.40.630. Definitions. In AS 14.40.560 — 14.40.640, unless the context otherwise requires,

(1) "board of regents" or "board" means the Board of Regents of the University of Alaska;

(2) "community college" means a program of education established by the University of Alaska in cooperation with qualified school districts or qualified political subdivisions of the state, including both academic degree and nondegree programs;

(3) "qualified school district" or "qualified political subdivision" means a school district or political subdivision organized under the laws of the state, or a group of two or more contiguous school districts or political subdivisions of the state, or a combination of each, which combination, considered as a unit, meets the following minimum requirements for the establishment of a community college:

(A) makes application to the Board of Regents of the University of Alaska for participation in the community college program;

(B) satisfies educational standards of the University of Alaska according to criteria established by the Board of Regents;

(C) has had an average daily membership during the previous school year of at least 75 high school students, grades 9-12;

(D) has established to the satisfaction of the Board of Regents the practical need for a community college within the district or political subdivision; and

(E) makes arrangements for defraying its proper share of the costs of the operation and maintenance of a community college, as provided by the terms of AS 14.40.560 — 14.40.640. (§ 2 ch 75 SLA 1962)

Revisor's notes. — Reorganized in 1967 to alphabetize the defined terms.

Sec. 14.40.640. Short title. AS 14.40.560 — 14.40.640 may be cited as the Community College Act. (§ 1 ch 75 SLA 1962)

Secs. 14.40.660 — 14.40.720. [Renumbered as AS 14.44.010 — 14.44.060.]

Secs. 14.40.751 — 14.40.845. [Renumbered as AS 14.43.090 — 14.43.325.]

Secs. 14.40.901 — 14.40.919. [Renumbered as AS 14.42.010 — 14.42.055.]

Sec. 14.40.920. [Renumbered as AS 14.43.080.]

Secs. 14.40.930 — 14.40.960. [Renumbered as AS 14.43.400 — 14.43.500.]

Chapter 42. Postsecondary Education.

Article

1. Alaska Commission on Postsecondary Education (§§ 14.42.010 — 14.42.055)
2. Alaska Student Loan Corporation (§§ 14.42.200, 14.42.210)

Article 1. Alaska Commission on Postsecondary Education.

Section

10. Purpose, intent
15. Creation, composition, appointment of members
20. Officers
25. Meetings, rules, votes required
30. Functions of the commission
32. Limitation on awarding loans

Section

35. Collection of data
40. Executive officer and staff; administration
45. Compensation and per diem
50. Legal counsel
55. Consortia

Collateral references. — 15A Am. Jur. 2d Colleges and Universities, §§ 6-8, 10.

14 C.J.S. Colleges and Universities, §§ 1-3.

Grounds for ousting educational corporation of its franchise. 46 ALR 1478.

Sec. 14.42.010. Purpose, intent. (a) The legislature finds and declares that it has become essential for Alaska to provide for a more efficient use of financial resources, both federal and state, in providing postsecondary educational services to its citizens. Thus, the state should create a more closely articulated system of planning for postsecondary education, with special reference to occupational education and the unique contribution made by the community colleges. The objective of this chapter is the coordinated, comprehensive planning for postsecondary education in Alaska, encompassing public, private and proprietary postsecondary educational institutions and agencies in the state, in order to lessen the disparate planning efforts of the several state agencies and others now planning one or more elements of postsecondary education. At the same time, the Education Amendments of 1972 (PL 92-318) affords the state the opportunity to draw together programs widely scattered outside the statewide university system but which are related to postsecondary, and especially higher, education that would be more effectively administered by a more visible single agency and thus more clearly and directly accountable to the legislature and to the people of Alaska.

(b) The legislature affirms that the legal authority for the operation and management of the statewide university system remains with the

Board of Regents of the University of Alaska and the legal authority for the operation and management of other postsecondary educational programs remains with the governing boards of the other private non-profit and proprietary institutions in the state. (§ 4 ch 78 SLA 1974)

Revisor's notes. — Formerly AS
14.40.901. Renumbered in 1982.

Sec. 14.42.015. Creation, composition, appointment of members. (a) There is in the Department of Education the Alaska Commission on Postsecondary Education consisting of

(1) two members of the Board of Regents of the University of Alaska designated by the members of that body;

(2) one person representing private higher education in the state selected jointly by the Boards of Trustees of Alaska Pacific University and Sheldon Jackson College from among their membership;

(3) one person representing the Department of Education selected by the state Board of Education;

(4) four persons broadly and equitably representative of the general public appointed by the governor;

(5) one member of the state Advisory Council on Vocational Education designated by the members of that body;

(6) one person from the members of the local community college advisory councils appointed by the governor;

(7) two members from the legislature, one of whom shall be appointed by the president of the senate and one by the speaker of the house of representatives;

(8) one person appointed in accordance with (e) of this section who is a full-time student as defined in AS 14.43.160(2);

(9) one administrator appointed by the governor from a proprietary institution of postsecondary education that has an authorization to operate in the state issued under AS 14.48.

(b) No governing body member, trustee, official or employee of either a public, private or proprietary institution of postsecondary or higher education in the state may be appointed to membership on the commission as representative of the general public for the purpose of (a)(4) of this section.

(c) The governor's appointees are subject to confirmation by the legislature and shall serve at the pleasure of the governor for four-year staggered terms. Members appointed or designated by bodies or agencies other than the governor serve at the pleasure of the appointing authority. Vacancies shall be filled in the same manner as original appointment.

(d) For the purpose of (a)(4) of this section, "broadly and equitably representative of the general public" means that the public membership of the commission shall include adequate representation both on

the basis of sex and on the basis of the significant racial, ethnic, geographic and economic groups in the state.

(e) A full-time postsecondary student shall be appointed to the Alaska Commission on Postsecondary Education from a list of nominees submitted to the governor. The governor shall make the appointment from the list within 60 days after it is submitted. The list shall consist of the names of two nominees from Alaska Pacific University, two nominees from Sheldon Jackson College, and two nominees from each campus of the University of Alaska. The nominees shall be selected by the students at Alaska Pacific University, Sheldon Jackson College, and each campus of the University of Alaska. Selections shall be made at elections conducted under rules established by the Office of the Governor. The term of office of the student member of the commission is two years. Membership on the commission is immediately forfeited by a student member who ceases to be a full-time student. Within 60 days after a vacancy occurs, the governor shall appoint a successor from those students appearing on the list of nominees to serve for the unexpired term of the original appointee. The term "campus" used in this subsection means a portion of the University of Alaska designated as a "campus" by the Board of Regents. (§ 4 ch 78 SLA 1974; am §§ 1 — 3 ch 64 SLA 1982; am § 56 ch 6 SLA 1984; am § 1 ch 64 SLA 1986)

Revisor's notes. — Formerly AS 14.40.903. Renumbered in 1982.

Cross references. — For transitional provisions relating to the 1986 amendment to this section, see § 7, ch. 64, SLA 1986, in the Temporary and Special Acts.

Effect of amendments. — The 1984 amendment substituted "Pacific" for "Methodist" in paragraph (2) of subsection (a).

The 1986 amendment in subsection (a)

rewrote paragraph (6), primarily by deleting reference to the state Advisory Council on Community Colleges, at the end of paragraph (7) substituted "appointed by the president of the senate and one by the speaker of the house of representatives" for "designated by the Legislative Council and one by the Legislative Budget and Audit Committee," added paragraph (9) and made a related punctuation change.

Sec. 14.42.020. Officers. The chairman and vice-chairman shall be elected from among the members of the commission for a one-year term. A member of the commission may not serve as chairman for more than two consecutive one-year terms. (§ 4 ch 78 SLA 1974)

Revisor's notes. — Formerly AS 14.40.905. Renumbered in 1982.

Sec. 14.42.025. Meetings, rules, votes required. The commission shall prescribe its own rules of procedure. The commission shall meet once quarterly at a time and place determined by the chairman, and at other times and places as the chairman, or a majority of the members of the commission, consider necessary. A quorum is a majority of the members of the commission. The votes of the commission members

shall be recorded, and effective action requires the affirmative vote of a majority of the commission members present. A commission member may not, with respect to a matter before the commission, vote for or on behalf of, or in any way exercise the vote of, another member of the commission. (§ 4 ch 78 SLA 1974)

Revisor's notes. — Formerly AS
14.40.907. Renumbered in 1982.

Sec. 14.42.030. Functions of the commission. (a) The commission has the following functions, advisory to the governing boards of institutions of public and private higher education in Alaska, to the governor, the legislature and to other appropriate state and federal officials:

(1) coordinate the development of comprehensive plans for the orderly, systematic growth of public and private postsecondary education, including community colleges and occupational education, in the state and submit recommendations on the need for, and location of, new facilities and programs;

(2) advise as to the functions and purposes of the colleges and universities, both public and private, in the state and counsel as to the programs appropriate to each;

(3) review the annual budgets and capital outlay requests of the University of Alaska and of each of the private colleges and universities in the state, and present comments on the general level of support sought;

(4) review and advise as to the working of all consortia and other cooperative agreements between the institutions of higher education in the state that are parties to them;

(5) submit to the governor and to the legislature within 10 days after the beginning of each regular session of the legislature a report which recommends necessary or desirable changes, if any, in the functions and programs of the several segments of the total complex of both public and private postsecondary education in Alaska.

(b) The commission shall

(1) develop a comprehensive statewide plan for coordinated postsecondary education in the state and serve as the state commission on postsecondary education required under § 1202 of Title XII of the Higher Education Act of 1965, as amended by the Education Amendments of 1972 (PL 92-318, § 196; 86 Stat. 324);

(2) establish a state advisory council on community colleges and develop a comprehensive statewide plan for the expansion and improvement of the community colleges under § 1001 of Title X of the Higher Education Act of 1965, as amended by the Education Amendments of 1972 (PL 92-318, § 186; 86 Stat. 312, 313);

(3) serve as the state agency required under § 105 of Title I (Community Service and Continuing Education), 603 of Title VI (Financial

Assistance for Undergraduate Education), 704 of Title VII (Construction of Academic Facilities), and Part B of Title IV (Guaranteed Student Loan Program) of the Higher Education Act of 1965 (PL 89-329; 79 Stat. 1220, 1262; 20 U.S.C. 1005, 1123) as authorized by § 1202(c) of Title XII of the Higher Education Act of 1965, as amended by the Education Amendments of 1972 (PL 92-318, § 196; 86 Stat. 324);

(4) administer the provisions of AS 14.43.090 — 14.43.160 (student loan program), and serve as the student financial aid committee;

(5) administer the provisions of AS 14.48 (regulation of postsecondary educational institutions);

(6) resolve any disputes that exist or arise under a consortium or other cooperative agreement between institutions of public and private higher education in the state.

(c) The commission may establish task forces, committees or subcommittees, not necessarily consisting of commission members, to advise and assist the commission in carrying out its functions assigned by state or federal statute. The commission may contract with, or use, existing institutions of higher education or other individuals or organizations to make studies, conduct surveys, submit recommendations or otherwise contribute to the work of the commission. The commission may appoint a committee to be responsible for the area of student financial aid.

(d) The commission may enter into agreements with government or postsecondary education officials of this state or other states to provide postsecondary educational services and programs to Alaska residents pursuing a medical education. An agreement with another state must be limited to services and programs that are unavailable in Alaska. (§ 4 ch 78 SLA 1974; am § 2 ch 25 SLA 1976; am § 24 ch 14 SLA 1987; am § 1 ch 15 SLA 1987)

Revisor's notes. — Formerly AS 14.40.909. Renumbered in 1982.

Effect of amendments. — The first 1987 amendment in subsection (b)(3) inserted "and Part B of Title IV (Guaranteed Student Loan Program)" and made related stylistic changes.

ted Student Loan Program)" and made related stylistic changes.

The second 1987 amendment added subsection (d).

Sec. 14.42.032. Limitation on awarding loans. In administering AS 14.43.090 — 14.43.325, 14.43.600 — 14.43.700, and 14.43.710 — 14.43.790, the commission may not during a fiscal year award loans with a total value that exceeds by more than three percent the total value of loans awarded under those provisions during the previous fiscal year. This limitation may be exceeded only if the commission is specifically authorized to do so by law. (§ 1 ch 92 SLA 1987)

§ 14.42.035 COMPILED SCHOOL LAWS OF ALASKA § 14.42.050

Sec. 14.42.035. Collection of data. The commission may require the institutions of public and private higher education and other institutions of postsecondary education, in the state to submit data on costs, selection and retention of students, enrollments, plant capacities and use and other matters pertinent to effective planning and coordination, and shall furnish information concerning these matters to the governor, to the legislature and to other state and federal agencies as requested by them. (§ 4 ch 78 SLA 1974)

Revisor's notes. — Formerly AS 14.40.911. Renumbered in 1982.

Sec. 14.42.040. Executive officer and staff; administration. (a) The commission may appoint an executive officer. The executive officer is a member of the exempt service under AS 39.25.110, serves at the pleasure of the commission, and receives compensation fixed by the commission. The executive officer appoints persons to the staff positions authorized by the commission, and staff compensation is fixed by the commission. The executive officer is the executive secretary of the student financial aid committee. Each employee of the commission shall elect membership either in the state teachers' retirement system (AS 14.25), if qualified, or in the public employees' retirement system (AS 39.35).

(b) The Alaska Commission on Postsecondary Education is not a division in the Department of Education. The commission, its members, executive officer and staff are in the Department of Education for administrative support services only, and they are not subject to the direction of the commissioner of education or the state Board of Education. (§ 4 ch 78 SLA 1974)

Revisor's notes. — Formerly AS 14.40.913. Renumbered in 1982.

Sec. 14.42.045. Compensation and per diem. Members of the commission serve without compensation but are entitled to per diem and travel expenses as may be authorized by law for boards and commissions. (§ 4 ch 78 SLA 1974)

Revisor's notes. — Formerly AS 14.40.915. Renumbered in 1982.

Sec. 14.42.050. Legal counsel. (a) The attorney general is legal counsel for the commission. The attorney general shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party. If, in the opinion of the commission, the public interest is not adequately repre-

sented by counsel in a proceeding, the attorney general, upon request of the commission, shall represent the public interest.

(b) The commission may employ temporary legal counsel from time to time in matters in which the commission is involved. (§ 3 ch 25 SLA 1976)

Revisor's notes. — Formerly AS 14.40.917. Renumbered in 1982.

Sec. 14.42.055. Consortia. All parties that are signatory to a consortium agreement between the University of Alaska and a private university or college must abide by a decision rendered by the commission when disagreements arise or exist between the parties. For purposes of this section and AS 14.42.030(b)(6), "consortium" means a cooperative arrangement between two or more public or private institutions of higher education specified in agreements or memoranda of understanding to permit sharing of facilities, instructional opportunities, and other educational services in such a way that the integrity of each institution party to the consortium is preserved while at the same time the institutions cooperatively plan the academic calendar, scheduling, use of personnel and facilities, and educational programs and offerings to the maximum advantage of the students and faculties of the institutions that are parties to a consortium. (§ 8 ch 246 SLA 1976)

Revisor's notes. — Formerly AS 14.40.919. Renumbered in 1982.

Article 2. Alaska Student Loan Corporation.

Section	Section
100. Creation of Alaska Student Loan Corporation	230. Trust indentures and trust agreements
110. Purpose of corporation	240. Reserves and capital reserves
120. Corporation governing body	250. Validity of pledge
130. Meetings of the board	260. Nonliability on bonds
140. Minutes of meetings	265. Underwriters
150. Administration of affairs	270. Pledge and agreement of state
160. Executive officer	280. Exemption from taxation
170. Staff	290. Bonds legal investments for fiduciaries
180. Budget	300. Operation of certain statutes excepted
200. General powers	310. Annual audit
210. Student loan fund	390. Definitions
220. Bonds of the corporation	

Sec. 14.42.100. Creation of Alaska Student Loan Corporation. There is created the Alaska Student Loan Corporation. The corporation is a public corporation and government instrumentality within the Department of Education but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes, or other obligations outstanding. Upon termination of the corporation, its rights and property pass to the state. (§ 2 ch 92 SLA 1987)

Sec. 14.42.110. Purpose of corporation. The purpose of the corporation is to improve higher educational opportunities for residents of the state in accordance with this chapter. (§ 2 ch 92 SLA 1987)

Sec. 14.42.120. Corporation governing body. (a) The corporation shall be governed by a board of directors appointed by the governor consisting of two members of the Alaska Commission on Postsecondary Education, each of whom is selected for the commission under AS 14.42.015(a)(1) — (2), (4) — (6), (8), or (9) and the commissioner of revenue, the commissioner of administration, and the commissioner of commerce and economic development. Members of the board serve without compensation but the members who are also members of the Alaska Commission on Postsecondary Education are entitled to per diem and travel expenses authorized by law for boards and commissions under AS 39.20.180.

(b) The board shall elect a chairman from among its membership at its annual meeting each year. A majority of the members constitute a quorum for organizing the board, conducting its business, and exercising the powers of the corporation. (§ 2 ch 92 SLA 1987)

Sec. 14.42.130. Meetings of the board. (a) The board shall meet at the call of its chairman and at other times as the board may determine in accordance with its regulations.

(b) Public notice of a meeting of the board at which the issuance of corporation bonds is authorized shall be provided at least 24 hours before the meeting. (§ 2 ch 92 SLA 1987)

Sec. 14.42.140. Minutes of meetings. The board shall keep minutes of each meeting and send a certified copy to the governor and to the Legislative Budget and Audit Committee. (§ 2 ch 92 SLA 1987)

Sec. 14.42.150. Administration of affairs. The board shall manage the assets and business of the corporation and may adopt bylaws and regulations, in accordance with the Administrative Procedure Act (AS 44.62), governing the manner in which the business of the corporation is conducted and the manner in which its powers are exercised. The board shall delegate supervision of the administration of the cor-

poration to the executive officer of the corporation. (§ 2 ch 92 SLA 1987)

Sec. 14.42.160. Executive officer. The executive officer of the Commission on Postsecondary Education appointed under AS 14.42.040(a) shall serve as executive officer of the corporation. The board shall prescribe the duties of the executive officer. (§ 2 ch 92 SLA 1987)

Sec. 14.42.170. Staff. The employees of the Alaska Commission on Postsecondary Education shall serve as staff for the corporation. (§ 2 ch 92 SLA 1987)

Sec. 14.42.190. Budget. The operating budget of the corporation is subject to AS 37.07 (Executive Budget Act). (§ 2 ch 92 SLA 1987)

Sec. 14.42.200. General powers. In addition to other powers granted in this chapter, the corporation may

- (1) sue and be sued in its own name;
- (2) adopt an official seal;
- (3) adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter;
- (4) make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the corporation, including contracts with a person or governmental entity;
- (5) receive, administer, and comply with the conditions and requirements respecting any appropriation, gift, grant, or donation of property or money;
- (6) borrow money as provided in this chapter to carry out its corporate purposes and issue its obligations as evidence of the borrowing;
- (7) include in a borrowing the amounts to pay financing charges, interest on the obligations for a period not exceeding one year after the date on which the corporation estimates funds will otherwise be available to pay the interest, consultant, advisory and legal fees and other expenses necessary or incident to the borrowing;
- (8) invest or reinvest, subject to its contracts with noteholders and bondholders, money held by the corporation as set out in AS 37.10.071;
- (9) collect from a borrower amounts owed with respect to a student loan the corporation has purchased;
- (10) gather information on student loans available to residents of Alaska and disseminate the information to reasonably assure that qualified residents are aware of financial resources available to those attending or desiring to attend institutions for which loans may be made under AS 14.43.090 — 14.43.325, 14.43.600 — 14.43.700, or 14.43.710 — 14.43.790;

- (11) service student loans held by the corporation;
- (12) purchase or participate in the purchase of student loans;
- (13) contract in advance for the purchase or sale of student loans;
- (14) sell or participate in the sale, either public or private and on terms authorized by the board, of student loans to the Student Loan Marketing Association or to other purchasers;
- (15) collect and pay reasonable fees and charges in connection with the purchase, sale, and servicing of student loans;
- (16) enter into agreements with the federal government, including guaranty agreements and supplemental guaranty agreements as described in the United States Higher Education Act of 1965, as necessary to provide for the receipt by the corporation of administrative allowances and other benefits available under the United States Higher Education Act of 1965;
- (17) administer federal money allotted to the state involving insured student loans and related administrative costs and other matters;
- (18) enter into agreements with the Alaska Commission on Postsecondary Education relating to student loans, the administration of the student loan fund created under AS 14.42.210, and the payment of and security for bonds of the corporation;
- (19) to the extent permitted under contracts with bond holders, consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other terms of a student loan purchased by the corporation;
- (20) procure insurance against any loss in connection with the operation of its programs;
- (21) provide advisory services to borrowers and other participants in the corporation's programs;
- (22) enter into credit facility agreements and make pledges, covenants, and agreements with respect to the repayment of borrowings under the credit facility agreements;
- (23) do all acts necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in AS 14.42.100 — 14.42.390. (§ 2 ch 92 SLA 1987; am § 10 ch 141 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 9, 1988, substituted "as set out in AS 37.10.071" for "in obligations or other securities autho-

rized for investments of the commissioner of revenue under AS 37.10.070(a)" in paragraph (8).

Sec. 14.42.210. Student loan fund. (a) The student loan fund is established in the corporation. The student loan fund is a trust fund to be used to carry out the purposes of AS 14.42.100 — 14.42.390, AS 14.43.090 — 14.43.325, 14.43.600 — 14.43.700, and 14.43.710 — 14.43.790. The fund consists of money or assets appropriated or trans-

ferred to the corporation for the fund and money or assets deposited in it by the corporation. The corporation may establish separate accounts in the fund.

(b) Money and other assets of the student loan fund may be used to secure bonds of the corporation, invested in student loans and investments under AS 37.10.071 and used to purchase loans approved under AS 14.43.090 — 14.43.325, 14.43.600 — 14.43.700, or 14.43.710 — 14.43.790.

(c) The student loan fund shall be administered by the Alaska Commission on Postsecondary Education. The corporation and the commission may enter into agreements relating to the administration of the fund. The corporation may assign its rights under the agreements for the benefit and security of holders of its bonds. (§ 2 ch 92 SLA 1987; am § 11 ch 141 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 9, 1988, substituted "under AS 37.10.071" for "de- scribed in AS 37.10.070(a)" in subsection (b).

Sec. 14.42.220. Bonds of the corporation. (a) Subject to (f) of this section, the corporation may borrow money and may issue bonds, on which the principal and interest are payable from its income and receipts or other assets or a designated part or parts of them.

(b) Bonds may be authorized only by resolution of the board. Bonds shall be dated, bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, be subject to the terms of redemption, and mature as provided by the resolution or a subsequent resolution. However, a bond may not mature more than 30 years after the date it is issued.

(c) Bonds of the corporation, regardless of form or character, are negotiable instruments for all the purposes of the Uniform Commercial Code (AS 45.01 — AS 45.09).

(d) Bonds of the corporation may be sold at public or private sale in the manner, for the price or prices, and at the time or times that the board determines.

(e) The superior court has jurisdiction to hear and determine proceedings relating to the corporation, including proceedings brought by or for the benefit of a bondholder or by a trustee for or other representative of a bondholder.

(f) The corporation may not issue bonds, other than refunding bonds, during any two consecutive fiscal years in an aggregate amount greater than \$125,000,000 unless the legislature, by law, approves issuance of a greater amount. (§ 2 ch 92 SLA 1987)

Sec. 14.42.230. Trust indentures and trust agreements. An issue of bonds by the corporation may be secured by a trust indenture or

trust agreement between the corporation and a corporate trustee, which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the corporation may:

(1) enter into agreements with the trustee or the bondholders that the board determines to be necessary or desirable, including covenants, provisions, limitations, and other agreements as to the

(A) application, investment, deposit, use, and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) fixing and collecting loan payments and other consideration for a student loan;

(C) assignment by the corporation of its rights in a student loan or in a mortgage or other security interest created with respect to a student loan to a trustee for the benefit of bondholders;

(D) terms and conditions upon which additional bonds of the corporation may be issued;

(E) vesting in a trustee of rights, powers, duties, funds, or property in trust for the benefit of bondholders, including the right to enforce payment, performance, and other rights of the corporation or of the bondholders, under a student loan or a security interest created with respect to a student loan;

(2) pledge, mortgage or assign money, agreements, property, or other assets of the corporation either presently in hand or to be received in the future, or both; and

(3) provide for other matters that in any way affect the security or protection of the bonds. (§ 2 ch 92 SLA 1987)

Sec. 14.42.240. Reserves and capital reserves. (a) For the purpose of securing one or more issues of bonds of the corporation, the board may establish one or more special funds, called "capital reserve funds," and may pay into those capital reserve funds the proceeds of the sale of bonds and other money available to the corporation from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the board determines that the establishment of the fund would enhance the marketability of the bonds. Money in a capital reserve fund, except as provided in this section, may be used as required only for the (1) payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) purchase or redemption of the bonds; or (3) payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve fund requirement, except for the purpose of making payment, when due, of principal, interest, or redemption premiums on the bonds when

other money of the corporation is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the corporation to other funds or accounts of the corporation if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the board decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless the corporation, at the time of issuance of the bonds, pledges to deposit in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested and credit facilities deposited in or credited to a capital reserve fund under (f) of this section shall be valued by a reasonable method established by the board by resolution. Valuation shall include the amount of interest earned or accrued as of the date of valuation.

(d) By January 15 of each year, the chairman of the board shall certify in writing to the governor and the legislature the amount, if any, required to restore a capital reserve fund to the capital reserve fund requirement. The legislature may appropriate to the corporation the amount certified by the chairman. The corporation shall deposit the amounts appropriated under this subsection during a fiscal year in the proper capital reserve fund. This subsection does not create a debt or liability of the state.

(e) The board may establish reserve funds, other than capital reserve funds, to secure one or more issues of bonds of the corporation. The corporation may deposit in a reserve fund established under this subsection the proceeds of sale of its bonds and other money available from any other source. The corporation may allow a reserve fund established under this subsection to be depleted without complying with (d) of this section.

(f) The corporation may hold in a capital reserve fund, in lieu of money and in satisfaction of all or part of a capital reserve fund requirement, irrevocable letters of credit issued by a commercial bank, surety bonds, insurance policies, and similar credit facilities.

(g) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the board. (§ 2 ch 92 SLA 1987)

Sec. 14.42.250. Validity of pledge. It is the intention of the legislature that a pledge made in respect to bonds of the corporation shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the corporation shall

immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the corporation irrespective of whether the parties have notice. Neither the resolution, trust agreement, nor other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code (AS 45.01 — AS 45.09) to be valid, binding, or effective. (§ 2 ch 92 SLA 1987)

Sec. 14.42.260. Nonliability on bonds. (a) The members of the board and individuals executing the bonds of the corporation are not liable personally on the bonds or subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the corporation do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the corporation, but shall be payable solely from the income and receipts or other funds or property of the corporation. The corporation may not pledge the faith or credit of the state, or of a political subdivision of the state, except the corporation, to the payment of a bond. Issuance of a bond by the corporation does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 2 ch 92 SLA 1987)

Sec. 14.42.265. Underwriters. The board may select one or more underwriters for its bonds in accordance with procedures

- (1) for the award of a contract under AS 36.30.200 — 36.30.260; or
- (2) adopted by regulations of the board that are based on the competitive principles of AS 36.30.200 — 36.30.260 and are adapted to the special needs of the corporation in the selling of its bonds as determined by the board. (§ 2 ch 92 SLA 1987)

Sec. 14.42.270. Pledge and agreement of state. The state pledges to and agrees with holders of bonds issued by the corporation that the state will not limit or alter the rights and powers vested in the corporation under AS 14.42.100 — 14.42.390 to fulfill the terms of a contract made by the corporation with the bondholders or in any way impair the rights and remedies of the bondholders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the bondholders, are fully met and discharged. The corporation may include this pledge and agreement of the state in a contract with bondholders. (§ 2 ch 92 SLA 1987)

Sec. 14.42.280. Exemption from taxation. The real and personal property of the corporation and its assets, income, and receipts are declared to be the property of a political subdivision of the state and devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, and other interests of the corporation are exempt from all taxes and special assessments of the state or a political subdivision of the state, including municipalities, school districts, public utility districts, and other governmental units. Bonds of the corporation are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose, and the bonds, interest on them, income from them, and transfer of them, and all assets, income, and receipts pledged to pay or secure the payment of the bonds, or interest on them, are exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. (§ 2 ch 92 SLA 1987)

Sec. 14.42.290. Bonds legal investments for fiduciaries. The bonds of the corporation are securities in which public officers and bodies of the state, municipalities, insurance companies, insurance associations, other persons carrying on an insurance business, banks, bankers, trust companies, savings banks, savings associations, building and loan associations, investment companies, other persons carrying on a banking business, administrators, guardians, executors, trustees, other fiduciaries, and other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the corporation are also securities that may be deposited with and may be received by public officers and bodies of the state and municipalities for any purpose for which the deposit of bonds or other obligations of the state is not or may be authorized. (§ 2 ch 92 SLA 1987)

Sec. 14.42.300. Operation of certain statutes excepted. (a) The corporation is not a municipality as the term is defined in AS 01.10.060. Except as provided in AS 14.42.190, the corporation is not subject to AS 37. For all other purposes the corporation is a political subdivision and an instrumentality of the state.

(b) The funds, income, and receipts of the corporation are not money of the state, nor may real property in which the corporation has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way land belonging to the state, or state land referred to in art. VIII of the Alaska Constitution. (§ 2 ch 92 SLA 1987)

Sec. 14.42.310. Annual audit. The financial records of the corporation shall be audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the corporation and shall have access to these records at any time, (§ 2 ch 92 SLA 1987)

Sec. 14.42.390. Definitions. In AS 14.42.100 — 14.42.390,

(1) "board" means the board of directors of the corporation;

(2) "corporation" means the Alaska Student Loan Corporation. (§ 2 ch 92 SLA 1987)

Revisor's notes. — Enacted as AS
14.42.500. Renumbered in 1987.

Chapter 43. Scholarship, Loan, and Grant Programs for Postsecondary Students.

Article

1. University of Alaska Scholarships for High School Graduates (§§ 14.43.010 — 14.43.030)
2. University of Alaska Scholarships for Natives (§§ 14.43.050 — 14.43.075)
3. Free Tuition and Fees for Dependents (§ 14.43.080)
4. Scholarship Loan Program (§§ 14.43.090 — 14.43.160)
5. Memorial Scholarship Revolving Loan Fund (§§ 14.43.250 — 14.43.325)
6. Educational Incentive Grant Program (§§ 14.43.400 — 14.43.500)
7. Teacher Scholarship Loan Program (§ 14.43.640)
8. Alaska Family Education Loan Program (§§ 14.43.710 — 14.43.790)
9. General Provisions (§ 14.43.910)

Article 1. University of Alaska Scholarships for High School Graduates.

Section

10. Students entitled to scholarships
15. Alternate upon refusal or failure to accept

Section

20. Applications for and issuance and report of certificates
25. Forfeiture of scholarship benefits
30. Payment of scholarships

Collateral references. — 15A Am. 14 C.J.S. Colleges and Universities,
Jur. 2d Colleges and Universities, §§ 19, §§ 27, 28.
20.

Sec. 14.43.010. Students entitled to scholarships. The high school student in each graduating class in each high school in the state who, upon the completion of four years of high school work in a high school in the state, obtains the highest average standing for all the credits earned, and who is graduated at an annual commencement is entitled to receive, during dormitory residence at the University of

§ 14.43.015 COMPILED SCHOOL LAWS OF ALASKA § 14.43.030

Alaska, a scholarship covering dormitory rent for a period of two years following the year of graduation upon presenting to the registrar of the university a certificate signed by the superintendent or principal of the high school from which the student graduated stating that the graduate named is entitled to receive the benefits of the scholarship. Dormitory residence is governed by the rules and regulations established by the Board of Regents. (§ 37-10-41 ACLA 1949)

Revisor's notes. — Formerly AS
14.40.460. Renumbered in 1982.

Sec. 14.43.015. Alternate upon refusal or failure to accept. If a person entitled to receive the benefit of AS 14.43.010 declines or fails to accept it, the graduate next in line in class standing is entitled to receive the benefit. (§ 37-10-42 ACLA 1949)

Revisor's notes. — Formerly AS
14.40.470. Renumbered in 1982.

Sec. 14.43.020. Applications for and issuance and report of certificates. A certificate shall be applied for and issued to a graduate before August 2 of each year and shall be reported immediately to the registrar of the University of Alaska by the superintendent or principal issuing it. (§ 37-10-43 ACLA 1949)

Revisor's notes. — Formerly AS
14.40.480. Renumbered in 1982.

Sec. 14.43.025. Forfeiture of scholarship benefits. Failure to do passing work in more than one subject during a semester, or withdrawal or expulsion from the University of Alaska, constitutes a forfeiture during the following semester or semesters of the benefits of AS 14.43.010 and 14.43.015. (§ 37-10-44 ACLA 1949)

Revisor's notes. — Formerly AS
14.40.490. Renumbered in 1982.

Sec. 14.43.030. Payment of scholarships. Payment of the scholarships shall be made monthly to the University of Alaska upon vouchers drawn upon the Department of Administration and duly certified by the treasurer and the president of the Board of Regents. Payments may not be made in excess of amounts specifically appropriated for this purpose. (§ 37-10-45 ACLA 1949; am § 23 ch 127 SLA 1974)

§ 14.43.050 COMPILED SCHOOL LAWS OF ALASKA § 14.43.060

Revisor's notes. — Formerly AS
14.40.500. Renumbered in 1982.

Article 2. University of Alaska Scholarships for Natives.

Section	Section
50. Purpose of scholarships	65. Scholarships in addition to other scholarships
55. Scholarships	75. Definition of Native
60. Continuation of scholarships	

Collateral references. — 15A Am. 14 C.J.S. Colleges and Universities,
Jur. 2d Colleges and Universities, §§ 19, §§ 27, 28.
30.

Sec. 14.43.050. Purpose of scholarships. Because of the language difficulty and economic conditions of the Native peoples of the state, and the necessity for integrating the Native cultures with the state economy, it is the purpose of the legislature to provide assistance to Natives who wish to pursue a higher education beyond the attainments possible in the free public schools system. (§ 1 ch 140 SLA 1955)

Revisor's notes. — Formerly AS
14.40.510. Renumbered in 1982.

Sec. 14.43.055. Scholarships. The Board of Regents of the University of Alaska shall offer not more than 15 new scholarships for each academic year to Alaska Natives desiring to attend the University of Alaska. The board shall give preference to Natives residing in the rural areas of the state who desire to receive training in the field of education. If there are more than 15 applications the board shall award 15 scholarships to those applicants who have the highest scholastic record or who the board determines are the most qualified among the applicants and who are financially unable to obtain a higher education without assistance. The University of Alaska shall provide such minimum financial assistance to these students as is necessary in each individual case, but not exceeding fees, board and room. (§ 3 ch 140 SLA 1955; am § 1 ch 6 SLA 1960)

Revisor's notes. — Formerly AS
14.40.520. Renumbered in 1982.

Sec. 14.43.060. Continuation of scholarships. The award of free room and board shall be made from any funds available to the University of Alaska. Each Native who receives a scholarship under AS 14.43.050 — 14.43.075 is entitled to retain the scholarship and to receive free room and board during attendance at the University of

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Alaska as long as the student maintains a grade average equivalent to a "C" or better. However, no Native is entitled to the scholarship for more than four years, or for more than the number of years necessary to receive a bachelor's degree. (§ 4 ch 140 SLA 1955)

Revisor's notes. — Formerly AS
14.40.530. Renumbered in 1982.

Sec. 14.43.065. Scholarships in addition to other scholarships. The scholarships are supplemental and in addition to any other scholarship to which an applicant is entitled or may receive. (§ 5 ch 140 SLA 1955)

Revisor's notes. — Formerly AS
14.40.540. Renumbered in 1982.

Sec. 14.43.075. Definition of Native. In AS 14.43.050 — 14.43.075, "Native" means a person between the ages of 17 and 25 who is a descendant of a member of the aboriginal races inhabiting the state when annexed to the United States, or who is a descendant of an Indian or Eskimo who, since the year 1867 and prior to June 30, 1962, migrated into the state from Canada, and who is a descendant having at least one-quarter blood derived from these ancestors. (§ 2 ch 140 SLA 1955)

Revisor's notes. — Formerly AS
14.40.550. Renumbered in 1982.

Article 3. Free Tuition and Fees for Dependents.

Section

80. Free tuition and fees at state-supported educational institutions

Collateral references. — 15A Am. 14 C.J.S. Colleges and Universities, Jur. 2d Colleges and Universities, §§ 19, §§ 27, 28, 20.

Sec. 14.43.080. Free tuition and fees at state-supported educational institutions. (a) Any dependent of a bona fide Alaska resident who, while serving during the hostilities involving the United States forces in Southeast Asia, was listed by the United States Department of Defense as a prisoner of war or missing in action in Southeast Asia may attend any state-supported educational institution without payment of tuition and fees.

(b) In this section, "dependent" means a dependent spouse or child. (§ 1 ch 176 SLA 1972)

Revisor's notes. — Formerly AS
14.40.920. Renumbered in 1982.

Article 4. Scholarship Loan Program.

Section	Section
90. Scholarship revolving loan fund	120. Conditions of loans
95. Financial aid committee	125. Eligibility of students
100. Applications	135. Discrimination prohibited
105. Administration of program	140. Enforceability of certain contracts with minors
110. Undergraduate loans	160. Definitions
115. Graduate loans	

Collateral references. — 15A Am.
Jur. 2d Colleges and Universities, §§ 19,
20.

14 C.J.S. Colleges and Universities,
§§ 27, 28.

Validity and application of provisions
governing determination of residency for
purposes of fixing fee differential for out-

of-state students in public college. 56
ALR3d 641.

Increase in tuition as actionable in suit
by student against college or university.
99 ALR3d 885.

Absence from or inability to attend
school or college as affecting liability for
or right to recover payments for tuition or
board. 20 ALR4th 303.

Sec. 14.43.090. Scholarship revolving loan fund. (a) There is created a scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.090 — 14.43.160, to pay the costs of collecting scholarship loans that are in default if those costs are not recovered from the student, and to pay the costs of administering the fund. Unless the instrument evidencing the scholarship loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on a scholarship loan shall be paid into the scholarship revolving loan fund. If money estimated to be available is inadequate to fully fund estimated scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) *[Repealed, § 31 ch 59 SLA 1982.]*

(c) *[Repealed, § 31 ch 59 SLA 1982.]*

(d) The student financial aid committee created under AS 14.43.095 may sell or assign notes and other instruments evidencing scholarship loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the student loan fund created under AS 14.42.210, and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of notes and other instruments shall be deposited in the scholarship revolving loan fund. (§ 1 ch 98 SLA 1971; am § 1 ch 156 SLA 1972; am §§ 1, 2 ch 136 SLA 1974; am § 1 ch 136 SLA 1975; am § 31 ch 59 SLA 1982; am § 1 ch 158 SLA 1984; am §§ 3, 4 ch 92 SLA 1987)

Revisor's notes. — Formerly AS 14.40.751. Renumbered in 1982.

Effect of amendments. — The 1984 amendment, in subsection (a), added "and to pay the costs of collecting student loans that are in default if those costs are not recovered from the student" at the end of the first sentence and substituted "loan fund" for "fund shall be used to make new scholarship loans" in the second sentence and "money estimated to be" for "funds" and "is" for "are" in the third sentence.

The 1987 amendment in subsection (a)

in the second sentence substituted "scholarship" for "student" following "collecting," added "and to pay the costs of administering the fund" at the end of the sentence, and made a related stylistic change, in the third sentence substituted "Unless the instrument evidencing the scholarship loan has been sold or assigned to the Alaska Student Loan Corporation" for "All" and "a scholarship loan" for "loans," and in the last sentence deleted "from scholarship loan repayments" following "available"; and added subsection (d).

Sec. 14.43.095. Financial aid committee. (a) The student financial aid committee is composed of the members of the Alaska Commission on Postsecondary Education. The commission may delegate its functions under AS 14.43.090 — 14.43.160 to a committee of its members, with augmented membership as the commission considers appropriate. The executive officer of the commission is the executive secretary of the committee. The Alaska Commission on Postsecondary Education shall administer the program established by AS 14.43.090 — 14.43.160.

(b) Members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(c) The committee shall make an annual report reviewing the work of the committee to the governor and the legislature.

(d) The committee shall meet at least once a year. The meetings shall be held at the call of the chairman or upon petition by two members. (§ 1 ch 98 SLA 1971; am § 2 ch 156 SLA 1972; am § 5 ch 78 SLA 1974; am § 3 ch 136 SLA 1974; am § 57 ch 6 SLA 1984)

Revisor's notes. — Formerly AS 14.40.753. Renumbered in 1982.

Effect of amendments. — The 1984 amendment substituted "and the legisla-

ture" for "the legislature and the private colleges and universities where students receiving tuition grants are enrolled" in subsection (c).

Sec. 14.43.100. Applications. (a) Applications shall be submitted to the executive secretary of the committee.

(b) A person whose loan application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application. (§ 1 ch 98 SLA 1971; am § 3 ch 156SLA 1972; am § 4 ch 136 SLA 1974; am § 58 ch 6 SLA 1984)

Revisor's notes. — Formerly AS 14.40.755. Renumbered in 1982.

Effect of amendments. — The 1984

amendment deleted "or grant" following "loan" in subsection (b).

Sec. 14.43.105. Administration of program. The executive secretary shall administer the programs subject to review by the committee and in accordance with the regulations adopted by the committee. The adoption of these regulations is subject to the Administrative Procedure Act (AS 44.62). A summary of the regulations shall be distributed to each applicant. (§ 1 ch 98 SLA 1971; am § 5 ch 136 SLA 1974)

Revisor's notes. — Formerly AS 14.40.757. Renumbered in 1982.

Sec. 14.43.110. Undergraduate loans. The student financial aid committee may make a loan, not to exceed \$5,500 in any one school year, to an undergraduate student eligible under AS 14.43.125. The committee may make a loan for a summer term, even if the total loan for the school year exceeds the \$5,500 maximum, if the loan for the summer term is counted against the \$5,500 maximum for the following school year. (§ 1 ch 98 SLA 1971; am § 6 ch 136 SLA 1974; am § 1 ch 153 SLA 1978; am § 1 ch 89 SLA 1981; am § 1 ch 34 SLA 1985; am § 1 ch 65 SLA 1986)

Revisor's notes. — Formerly AS 14.40.759. Renumbered in 1982.

Effect of amendments. — The 1985 amendment added the second sentence of the section.

The 1986 amendment inserted "student financial aid" in the first sentence and substituted "\$5,500" for "\$6,000" in three places in the section.

Sec. 14.43.115. Graduate loans. The student financial aid committee may make a loan, not to exceed \$6,500 in any one school year, to a graduate student who is eligible under AS 14.43.125 and is pursuing an advanced degree. The committee may make a loan for a summer term, even if the total loan for the school year exceeds the \$6,500 maximum, if the loan for the summer term is counted against the \$6,500 maximum for the following school year. (§ 1 ch 98 SLA 1971; am § 7 ch 136 SLA 1974; am § 2 ch 89 SLA 1981; am § 2 ch 34 SLA 1985; am § 2 ch 65 SLA 1986)

Revisor's notes. — Formerly AS 14.40.761. Renumbered in 1982.

Effect of amendments. — The 1985 amendment added the second sentence.

The 1986 amendment inserted "student financial aid" in the first sentence and substituted "\$6,500" for "\$7,000" in three places in the section.

Sec. 14.43.120. Conditions of loans. (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board.

(b) Scholarship loans may only be used to attend a

(1) career education program that has been approved by the commission before July 1, 1986, or has been operating for at least two years before the borrower attends; or

(2) a college or university that

(A) has been approved by the commission before July 1, 1986, or has been operating for at least two years before the borrower attends;

(B) is accredited by a national or regional accreditation association recognized by the Council on Postsecondary Accreditation or is approved by the commission; and

(C) if the loans are federally insured, is approved by the United States Secretary of Education.

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

(d) Scholarship loans may not be made to a student

(1) for more than five years of undergraduate study;

(2) for more than five years of graduate study;

(3) for more than a total of eight years of undergraduate and graduate study;

(4) to attend an institution, other than a nonprofit institution, if the total amount of scholarship loans made to students to attend that institution exceeds \$100,000 and the default rate on those loans exceeds the program default rate by more than 150 percent as defined by regulation.

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student is entitled to have a portion of the interest paid in accordance with (l) of this section.

(f) Interest on a loan given under AS 14.43.090 — 14.43.160 is at the rate of eight percent a year unless the loan is in default. Interest on a loan that is in default is 10 percent a year for the period the loan is in default.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

(h) Security may not be required for a loan; however, provision shall be made for payment of all fees and costs incurred in collection of the amount owed on the loan if it becomes delinquent or in default.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail. The

permanent fund dividend of a borrower may be taken under AS 43.23.065(b)(4) to satisfy the balance due on the defaulted loan.

(j) *[Repealed, § 19 ch 92 SLA 1987.]*

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (l) of this section during any of the following:

- (1) return to student status as provided in (c) of this section;
- (2) serving an initial period of up to six years on active duty as a member of the armed forces of the United States;
- (3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;
- (4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;
- (5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or
- (6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority.

(l) The state shall pay the interest on that portion of a loan that is not federally insured during

- (1) the period in which the borrower is a full-time student;
- (2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each.

(n) *[Repealed, § 11 ch 89 SLA 1981.]*

(o) *[Repealed, § 19 ch 92 SLA 1987.]*

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service.

(q) For the purposes of this section a loan is in default if a loan payment is 120 or more days past due.

(r) The rate of interest, time of payment of an installment of principal or interest, or other terms of a scholarship loan may be modified if required to establish or maintain tax-exempt status under 26 U.S.C. 103 (Internal Revenue Code of 1986), as amended, for the interest on bonds issued by the Alaska Student Loan Corporation. (§ 1 ch 98 SLA 1971; am § 4 ch 156 SLA 1972; am § 6 ch 78 SLA 1974; am § 8 ch 136 SLA 1974; am §§ 1 — 4 ch 99 SLA 1977; am §§ 3 — 8 ch 87 SLA 1979; am §§ 3 — 9, 11 ch 89 SLA 1981; am §§ 2 — 4 ch 158 SLA 1984; am § 3 ch 34 SLA 1985; am §§ 3, 4 ch 65 SLA 1986; am §§ 5 — 9, 19 ch 92 SLA 1987)

Revisor's notes. — Formerly AS 14.40.763. Renumbered in 1982.

In 1987, "Secretary" was substituted for "Commissioner" in (b)(2)(C) of this section to conform to the change in federal law.

Effect of amendments. — The 1984 amendment added subsection (q) and, in subsection (f), added the second sentence and added "unless the loan is in default" at the end of the first sentence; and, in subsection (o), substituted "that is in default" for "to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.43.110 or 14.43.115."

The 1985 amendment inserted "an initial period of up to six years" in paragraph (2) of subsection (k).

The 1986 amendment rewrote subsection (b) and in subsection (f) substituted "eight" for "five" in the first sentence.

The 1987 amendment added subsection (d)(4); in subsection (h) substituted "a loan" for "the loans" and "all" for "attorney," deleted "of court if either or both are" following "costs" and added "if it becomes delinquent or in default"; added the last sentence of subsection (i); in subsection (f) substituted "shall" for "will" in the introductory language and substituted "in which the borrower is a full-time student" for "before the beginning of the repayment period of the loan" at the end of paragraph (1); added subsection (r); and repealed subsections (j) and (o).

Legislative history reports. — For a report of legislative intent concerning the loan forgiveness provisions of ch. 89, SLA 1981 (FCCSSB 120), see 1981 Senate Journal p. 1560, 1580; 1981 House Journal p. 2289.

Sec. 14.43.125. Eligibility of students. (a) A person may apply for and obtain a scholarship loan if the person

(1) is

(A) enrolled as a full-time student in a career education, associate, baccalaureate, or graduate degree program; or

(B) a graduate of a high school or the equivalent, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university;

(2) is not delinquent or in default on a previously awarded scholarship loan; and

(3) is a resident of the state at the time of application for the loan; for purposes of this section, a person qualifies as a resident of the state if at the time of application for the loan the person

(A) has been physically present in the state for at least two years immediately before the time of application for the loan;

(B) is dependent on a parent or guardian for care, the parent or guardian has been present in the state for at least two years immediately before the time of application for the loan and the person has been present in the state for at least one year of the immediately preceding five years except that the commission may by a two-thirds vote, acting upon a written appeal by the person, grant an exemption to the requirement that the person has been present in the state for one year of the immediately preceding five years;

(C) has been physically present in the state, or is a dependent of a parent or guardian who has been physically present in the state, for at least two years immediately before the applicant was absent from the state and the absence is due solely to

(i) serving an initial period of up to six years on active duty as a member of the armed forces of the United States;

(ii) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;

(iii) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(iv) required medical care for the applicant or the applicant's immediate family;

(v) being a person who otherwise qualifies as a resident and is accompanying a spouse who qualifies as a resident under (i) — (iv) of this paragraph; or

(D) has been physically present in the state, or is a dependent of a parent or guardian who has been physically present in the state, for at least two years immediately before the applicant or the parent or guardian was absent from the state and the absence is due solely to

(i) participating in a foreign exchange student program recognized by the commission;

(ii) attending a school as a full-time student;

(iii) full-time employment by the state;

(iv) being a member of or employed full-time by the state's congressional delegation;

(v) being a person who otherwise qualifies as a resident and is accompanying a spouse who qualifies as a resident under (i) — (iv) of this paragraph; and

(4) does not have a past due child support obligation established by court order or by the child support enforcement division under AS 47.23.160 — 47.23.220 at the time of application.

(b) A person does not qualify as a resident of the state under this section if the person declares or establishes residence in another state during an absence from Alaska.

(c) A person may not be awarded a scholarship loan under AS 14.43.090 — 14.43.160 if a family education loan is made on behalf of that person under AS 14.43.710 — 14.43.790 or if that person receives a teacher scholarship loan under AS 14.43.600 — 14.43.700 for the same school year. (§ 1 ch 98 SLA 1971; am § 10 ch 89 SLA 1981; am § 9 ch 67 SLA 1983; am § 4 ch 34 SLA 1985; am § 2 ch 116 SLA 1986; am § 10 ch 92 SLA 1987)

Revisor's notes. — Formerly AS 14.40.765. Renumbered in 1982.

Effect of amendments. — The 1983 amendment, in paragraph (2) of subsection (b) deleted "and" following "guardian for care" and added the language beginning "and the person has been present" at the end of the paragraph.

The 1985 amendment rewrote the section.

The 1986 amendment added paragraph

(4) of subsection (a) and made a related technical change.

The 1987 amendment added subsection (c).

Editor's notes. — Section 18, ch. 67, SLA 1983 provides: "If the two-year residency requirement for scholarship loans provided by AS 14.43.125 is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, the Commission on Postsecondary Education shall

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adopt regulations to impose the most stringent residency requirement allowable under the Constitution of the State of Alaska and the United States Constitution on scholarship loan applicants."

Sec. 14.43.130. Selection criteria. [Repealed, § 19 ch 67 SLA 1983.]

Sec. 14.43.135. Discrimination prohibited. The student loan program shall be carried out without regard to the race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations of the student applying for the loan. (§ 1 ch 98 SLA 1971)

Revisor's notes. — Formerly AS 14.40.769. Renumbered in 1982. **Cross references.** — See also AS 14.18 and AS 18.80.

Sec. 14.43.140. Enforceability of certain contracts with minors. A written obligation entered into by a minor at least 16 years of age, evidencing a loan or other assistance received by the minor from any person for the purpose of furthering the minor's education in a career education program or an institution of higher learning, is enforceable against the minor with the same effect as if the minor were, at the time of its execution, 19 years of age, if the person making the loan has before making the loan a certification from the institution that the minor is enrolled in the institution or has been accepted for enrollment. (§ 1 ch 98 SLA 1971)

Revisor's notes. — Formerly AS 14.40.771. Renumbered in 1982.

Sec. 14.43.160. Definitions. In AS 14.43.090 — 14.43.160

(1) "career education" means a course or program in vocational-technical training or education approved by the commission;

(2) "commission" means the Alaska Commission on Postsecondary Education;

(3) "federally insured" means a loan covered by the provisions of the Guaranteed Student Loan Program of Title IV, Part B, of the Higher Education Act of 1965 (P.L. 89-329), as amended;

(4) "full-time student" means an undergraduate or career education student who is enrolled and is in regular attendance at classes for at least 12 semester hours of credit or the equivalent during the semester or a graduate student who is enrolled and is in regular attendance at classes for at least nine semester hours of credit or the equivalent; any combination of semester hours of credit, or the equivalent, aggregating to the requisite number of semester hours and undertaken during a semester at two or more public or private institutions of higher education constitutes full-time student status;

(5) "school year" means the period from September 1 of one year through August 31 of the following year;

(6) "summer term" means the period from June 1 — August 31. (§ 5 ch 156 SLA 1972; am § 8 ch 78 SLA 1974; am §§ 18 — 20 ch 136 SLA 1974; am § 5 ch 136 SLA 1975; am § 7 ch 246 SLA 1976; am §§ 5 — 7 ch 99 SLA 1977; am § 9 ch 87 SLA 1979; am § 11 ch 89 SLA 1981; am § 59 ch 6 SLA 1984; am § 5 ch 34 SLA 1985; am § 1 ch 52 SLA 1985)

Revisor's notes. — Formerly AS 14.40.806. Renumbered in 1982.

Reorganized in 1985 to alphabetize the defined terms.

Cross references. — For Title IV, Part B of the Higher Education Act of 1965, see 20 U.S.C. 1071 -- 1087-2.

Effect of amendments. — The 1984

amendment repealed former paragraph (3), which defined "part-time student."

The first 1985 amendment added paragraph (6).

The second 1985 amendment deleted "operating under a consortium" following "higher education" near the end of paragraph (4).

Article 5. Memorial Scholarship Revolving Loan Fund.

Section

250. Declaration of purpose
255. Fund created
300. Limits on, conditions of loans
305. Repayment of loans

Section

310. Selection
315. Discrimination prohibited
320. Administering authority
325. Funding

Sec. 14.43.250. Declaration of purpose. (a) The legislature may pay tribute to the memory of Alaskans who, by the example of their lives, or by their distinguished contribution and service to this state, their community or their profession, exemplified the best that is the challenge of "The Great Land" by the creation of memorial scholarships as a part of a general memorial scholarship revolving loan fund, setting out the purpose for which each is created, and the conditions applicable to each scholarship.

(b) The purposes of the several memorial scholarship accounts in the memorial scholarship revolving loan fund are as follows:

(1) the Michael Murphy memorial scholarship perpetuates the memory of Michael Murphy, a member of the Alaska State Troopers, who, while on leave from that division, gave his life for his adopted country in Vietnam on May 22, 1968;

(2) the Carroll L. "Butch" Swartz memorial scholarship perpetuates the memory of Carroll L. "Butch" Swartz, of Juneau, who was a student intern with the Criminal Justice Planning Agency and the Governor's Commission on the Administration of Justice during the summer months of 1972 and 1973 and whose accidental and untimely death in November 1973, occurred while completing his undergraduate education at Yale University, thus never realizing his educational goals or career objective;

(3) the Harvey Golub memorial scholarship perpetuates the memory of Harvey Golub, of Juneau, who was chief engineer of the bridge design section of the Department of Highways of the State of Alaska

and whose accidental and untimely death September 13, 1971, cut short a widely-respected career in civil engineering;

(4) the Robert L. Thomas memorial scholarship perpetuates the memory of Robert L. Thomas, of Juneau, who as Deputy Commissioner of Education, and for 13 years as a member of the professional staff of that department contributed significantly to the creation, operation and administration of a sound system of public education in Alaska and whose tragic and untimely death March 12, 1974, terminated a distinguished career in education and public administration that long will be exemplary for those who aspire to service in that profession; and

(5) the A.W. (Winn) Brindle memorial scholarship loan perpetuates the memory of A.W. (Winn) Brindle, who was the president of the Wards Cove Packing Company and Columbia-Wards Fisheries and whose death July 4, 1977, terminated a distinguished career dedicated to the development of the Alaska seafood industry. (§ 21 ch 136 SLA 1974; am § 1 ch 78 SLA 1986)

Revisor's notes. — Formerly AS 14.40.810. Renumbered in 1982. amendment added paragraph (5) of subsection (b).

Effect of amendments. — The 1986

Sec. 14.43.255. Fund created. (a) There is created a memorial scholarship revolving loan fund. The fund shall be used to provide educational scholarship loans to students selected under AS 14.43.250 — 14.43.325. Unless the instrument evidencing the memorial scholarship loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of a loan shall be deposited into the memorial scholarship revolving loan fund and shall be used to make new loans.

(b) Each memorial scholarship, the purpose of which is set out in AS 14.43.250(b), is a separate account in the memorial scholarship revolving loan fund created under (a) of this section.

(c) The student financial aid committee created under AS 14.43.095 may sell or assign notes and other instruments evidencing memorial scholarship loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the student loan fund created under AS 14.42.210, and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of a note or other instrument shall be deposited in the appropriate memorial scholarship loan fund account. (§ 21 ch 136 SLA 1974; am § 2 ch 78 SLA 1986; am §§ 11, 12 ch 92 SLA 1987)

Revisor's notes. — Formerly AS 14.40.815. Renumbered in 1982. the instrument evidencing the memorial scholarship loan has been sold or assigned to the Alaska Student Loan Corporation,

Effect of amendments. — The 1986 amendment rewrote subsection (a).

The 1987 amendment in the last sentence of subsection (a) substituted "Unless

repayments of a loan" for "Repayments of loans made under AS 14.43.250(b)(1) (4)" and deleted "repayments of loans

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made under AS 14.43.250(b)(5) shall be payments" preceding "shall be used to deposited into the scholarship revolving make new loans" and added subsection (c). loan fund created under AS 14.43.090. Re-

Sec. 14.43.300. Limits on, conditions of loans. (a) A scholarship loan to a recipient under AS 14.43.250(b)(1) — (4) may not exceed \$2,500 a school year for an undergraduate student or \$5,000 a school year for a graduate student, and may not be made to a student for more than six years. A scholarship loan to a recipient under AS 14.43.250(b)(5) may not exceed the cost of tuition and required fees, books and educational supplies, room and board, and transportation for two round trips between the recipient's home and school each year. A loan under AS 14.43.250(b)(5) may not be made for more than five years of undergraduate study, five years of graduate study, or a combined maximum of eight years of study.

(b) A loan made under AS 14.43.250 — 14.43.325 may be used only as follows:

(1) a Michael Murphy memorial scholarship loan may be used only to pursue a degree program in an accredited college or university in law enforcement, law, probation and parole, or penology, or closely related fields;

(2) a Carroll L. "Butch" Swartz memorial scholarship loan may be used only to pursue a degree program in an accredited college or university in criminal law, criminology, corrections, police science and administration, juvenile justice, or other fields closely related to criminal justice;

(3) a Harvey Golub memorial scholarship loan may be used only to pursue a degree program in an accredited college or university in civil, mechanical, electrical, electronic, petroleum, mining, traffic and transportation, sanitary, chemical or other recognized field of engineering;

(4) a Robert L. Thomas memorial scholarship loan may be used only to pursue a degree program in an accredited college or university that will lead to a career in education or public administration, or other closely related field; and

(5) an A.W. (Winn) Brindle memorial scholarship loan may be used only to pursue a certificate or degree program in an accredited school, college, or university in fisheries, fishery science, fishery management, seafood processing, food technology, or other closely related field.

(c) The recipient of a memorial scholarship loan must be a resident of Alaska and enrolled or eligible for enrollment as a full-time student in a certificate or degree program in a field listed in (b) of this section that is appropriate to the memorial scholarship loan received.

(d) The recipient must at all times continue to be enrolled as a full-time student in good standing at an accredited college or university.

(e) In any year in which the memorial scholarship revolving loan fund created under AS 14.43.255 has inadequate receipts to fund a loan in one of the scholarship categories listed in AS 14.43.250(b), no loan in that scholarship category may be offered and the receipts shall be added to the amount available for that category in the succeeding year.

(f) The administering authority may provide conditions in the note signed by the recipient or in a separate document or communication that will help it carry out the provisions of AS 14.43.250 — 14.43.325. (§ 21 ch 136 SLA 1974; am §§ 3 — 5 ch 78 SLA 1986)

Revisor's notes. — Formerly AS 14.40.820. Renumbered in 1982. amendment rewrote subsection (a), added paragraph (5) of subsection (b), and rewrote subsection (c).
Effect of amendments. — The 1986

Sec. 14.43.305. Repayment of loans. (a) Memorial scholarship loans under AS 14.43.250(b)(1) — (4) shall be noninterest-bearing and security for the loan may not be required. However, the note signed by the recipient shall provide for the payment of attorney fees, costs of court and skip-tracing fees if any are incurred in collection of the unpaid amount owed on the loan.

(b) No part of a loan made under AS 14.43.250 — 14.43.325 need be repaid during an academic year in which the student is attending an accredited college or university as a full-time student.

(c) Loans may be repaid at an accelerated rate at the option of the recipient.

(d) If a loan is in default, the administering authority shall notify the recipient that repayment of the remaining balance is accelerated and due by sending the recipient a notice of registered or certified mail.

(e) A recipient of a memorial scholarship loan under AS 14.43.250(b)(1) — (4) who graduates from a degree program shall receive forgiveness of one-fifth of loan indebtedness for each one-year period the recipient is employed full time in Alaska in

(1) law-enforcement or related fields, if a recipient of a Michael Murphy memorial scholarship loan;

(2) criminal law, criminal justice or other closely related fields, if a recipient of a Carroll L. "Butch" Swartz memorial scholarship loan;

(3) a recognized branch of the engineering profession or other closely related fields, if a recipient of a Harvey Golub memorial scholarship loan; or

(4) education or public administration, or other closely related field, if a recipient of a Robert L. Thomas memorial scholarship loan.

(f) That portion of the loan that is forgiven under (e) of this section shall be considered a grant to the recipient.

(g) A recipient who does not qualify for forgiveness of all or a part of the loan made under AS 14.43.250(b)(1) — (4) shall begin repayment

of the unforgiven portion within six months after leaving employment, or terminating studies, in

(1) law enforcement or related fields, if a recipient of a Michael Murphy memorial scholarship loan;

(2) criminal law, criminal justice or other closely related fields, if a recipient of a Carroll L. "Butch" Swartz memorial scholarship loan;

(3) a recognized branch of the engineering profession or other closely related fields, if a recipient of a Harvey Golub memorial scholarship loan; or

(4) education or public administration, or other closely related field, if a recipient of a Robert L. Thomas memorial scholarship loan.

(h) The unforgiven portion of a loan under (g) of this section shall be repaid in an amount, and at a monthly rate, to be determined by the administering authority after consultation with the recipient, but in any event not less than \$50 a month.

(i) To the extent they are not in conflict with terms and conditions under AS 14.43.250 — 14.43.325, the terms and conditions of a memorial scholarship loan made under AS 14.43.250(b)(5) are the same as the terms and conditions for a scholarship loan under AS 14.43.090 — 14.43.160. (§ 21 ch 136 SLA 1974; am §§ 6 — 9 ch 78 SLA 1986)

Revisor's notes. — Formerly AS 14.40.825. Renumbered in 1982.

Effect of amendments. — The 1986 amendment inserted "under AS 14.43.250(b)(1) — (4)" in the first sentence of subsection (a), substituted "AS 14.43.250(b)(1) — (4)" for "AS 14.43.250 — 14.43.325" in the introductory language of subsections (e) and (g) and added subsection (i).

Sec. 14.43.310. Selection. (a) In selecting from among eligible applicants a person who will be granted a loan under AS 14.43.250 — 14.43.325, the administering authority shall consider the following:

(1) the applicant's career goals and aspirations;

(2) the applicant's prior academic record;

(3) the financial need of the applicant; and

(4) other items that may be considered relevant by the administering authority to determine whether an applicant will receive a loan.

(b) To assist the administering authority in selecting eligible applicants for award of each of the memorial scholarship loans under AS 14.43.250 — 14.43.325 and in reviewing the memorial scholarship loan program, the following advisory committees are established:

(1) three Alaska state troopers, each one to be selected from and to represent a state trooper region of the state by the regional commander to serve for three years, for the Michael Murphy memorial scholarship;

(2) three members of the Governor's Commission on the Administration of Justice selected annually by the commission from among its membership, for the Carroll L. "Butch" Swartz memorial scholarship;

§ 14.43.315 COMPILED SCHOOL LAWS OF ALASKA § 14.43.325

(3) three members of the state Board of Registration for Architects, Engineers and Land Surveyors selected annually by the board from among its engineer members, for the Harvey Golub memorial scholarship; and

(4) three members of the state Board of Education, or of the staff of the Department of Education, or any combination of these, selected annually by the board, for the Robert L. Thomas memorial scholarship.

(c) In selecting from among eligible applicants for award of a memorial scholarship loan under AS 14.43.250(b)(5), the administering authority shall give preference to applicants nominated by private donors to the A.W. (Winn) Brindle memorial scholarship loan account in the memorial scholarship revolving loan fund. (§ 21 ch 136 SLA 1974; am § 10 ch 78 SLA 1986)

Revisor's notes. — Formerly AS 14.40.830. Renumbered in 1982. Effect of amendments. — The 1986 amendment added subsection (c).

Sec. 14.43.315. Discrimination prohibited. The memorial scholarship loan program shall be carried out without regard to the race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations of the applicant. (§ 21 ch 136 SLA 1974)

Revisor's notes. — Formerly AS 14.40.835. Renumbered in 1982. Cross references. — See also AS 14.18 and AS 18.80.

Sec. 14.43.320. Administering authority. (a) The memorial scholarship loans provided for under AS 14.43.250 — 14.43.325 shall be administered by the executive secretary of the student financial aid committee under AS 14.43.095 and 14.43.105, subject to review by the committee and those regulations the committee may prescribe to carry out the purposes of AS 14.43.250 — 14.43.325.

(b) To the extent that they are not in conflict with the provisions of AS 14.43.250 — 14.43.325, the provisions of AS 14.43.090 — 14.43.160 relating to scholarship loans are applicable to loans made under AS 14.43.250 — 14.43.325. (§ 21 ch 136 SLA 1974)

Revisor's notes. — Formerly AS 14.40.840. Renumbered in 1982.

Sec. 14.43.325. Funding. (a) The memorial scholarship revolving loan fund created under AS 14.43.255 shall be funded by voluntary contributions by state employees who may contribute the value of one or more days of annual leave a year to the memorial scholarship revolving loan fund to be credited to any one or more of the scholarship accounts listed in AS 14.43.250(b) at the discretion of the donor.

(b) The Department of Administration shall pay to the account of the memorial scholarship revolving loan fund established under AS 14.43.255 an amount equal to the value of the total number of days of annual leave contributed by state employees under (a) of this section.

(c) The administering authority may accept contributions from private sources for the memorial scholarship revolving loan fund created under AS 14.43.255. These contributions shall be deposited in the memorial scholarship revolving loan fund created under AS 14.43.255 to be credited to any one or more of the scholarship accounts listed in AS 14.43.250(b) at the discretion of the donor. For the purpose of this subsection, "private sources" means private individuals, corporations, foundations or other philanthropic or charitable organizations. (§ 21 ch 136 SLA 1974)

Revisor's notes. — Formerly AS
14.40.845. Renumbered in 1982.

Article 6. Educational Incentive Grant Program.

Section	Section
400. Purpose; creation	415. Eligibility; priority
405. Administration	420. Limitation on grants
410. Distribution of funds	500. Definitions

Sec. 14.43.400. Purpose; creation. There is established the Alaska state educational incentive grant program to provide financial assistance to eligible students to enable them to attend, or continue their attendance at, postsecondary educational institutions. Funds appropriated for this program shall be used as matching funds for the state's participation in the federal state student incentive grant program (P.L. 92-318; 20 U.S.C. 1070c — 1070c-3). (§ 1 ch 51 SLA 1978)

Revisor's notes. — Formerly AS
14.40.930. Renumbered in 1982.

Sec. 14.43.405. Administration. (a) The educational incentive grant program established under AS 14.43.400 — 14.43.500 shall be administered by the executive secretary of the student financial aid committee under AS 14.43.095 — 14.43.105, subject to review by the committee and to those regulations the committee may adopt to carry out the purposes of AS 14.43.400 — 14.43.500.

(b) To the extent that they are not in conflict with the provisions of AS 14.43.400 — 14.43.405, the provisions of AS 14.43.090 — 14.43.160 relating to student financial aid are applicable to the grants made under AS 14.43.400 — 14.43.500. (§ 1 ch 51 SLA 1978)

§ 14.43.410 COMPILED SCHOOL LAWS OF ALASKA § 14.43.500

Revisor's notes. — Formerly AS
14.40.935. Renumbered in 1982.

Sec. 14.43.410. Distribution of funds. The funds appropriated for the educational incentive grant program shall be allocated to eligible students in accordance with the provisions of the federal state student incentive grant program and regulations adopted under AS 14.43.105 and 14.43.405. (§ 1 ch 51 SLA 1978)

Revisor's notes. — Formerly AS
14.40.940. Renumbered in 1982.

Sec. 14.43.415. Eligibility; priority. (a) A student may apply for an educational incentive grant if the student

- (1) is a resident of Alaska;
- (2) is either

(A) enrolled as a full-time undergraduate student in a degree program in an accredited postsecondary educational institution; or

(B) eligible to be admitted to an accredited postsecondary educational institution; and

(3) establishes financial need in accordance with standards for determining financial need adopted by the committee under 20 U.S.C. 1070c-2.

(b) The student financial aid committee shall, by regulation, establish a system of priority in the selection of recipients of grants under AS 14.43.400 — 14.43.500 under which students from "low income" families or whose incomes are considered "low income" shall be given preference in the award of the educational incentive grants. (§ 1 ch 51 SLA 1978)

Revisor's notes. — Formerly AS
14.40.945. Renumbered in 1982.

Sec. 14.43.420. Limitation on grants. (a) A grant made under AS 14.43.400 — 14.43.500 may not be in an amount less than \$100 nor more than \$1,500 for each academic year.

(b) A grant awarded under AS 14.43.400 — 14.43.500 may be used by a student only at an accredited postsecondary educational institution. (§ 1 ch 51 SLA 1978)

Revisor's notes. — Formerly AS
14.40.950. Renumbered in 1982.

Sec. 14.43.500. Definitions. In AS 14.43.400 — 14.43.500

(1) "resident" means a person who, except for brief intervals, military service, attendance at an educational or training institution, or for absences for good cause shown, has resided in Alaska and who has maintained a domicile in Alaska; domicile is the true and permanent

home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away:

(2) "undergraduate" means a student who has not completed a baccalaureate, graduate or professional degree. (§ 1 ch 51 SLA 1978)

Revisor's notes. — Formerly AS
14.40.960. Renumbered in 1982.

Article 7. Teacher Scholarship Loan Program.

Section	Section
600. Findings and intent	630. Administration
610. Program established	640. Conditions of loans
620. Teacher scholarship revolving loan fund	650. Selection criteria
	700. Definition

Sec. 14.43.600. Findings and intent. (a) The legislature finds that there is a wide and unacceptable disparity between the distribution of Native teachers and Native students in rural elementary and secondary schools in the state. Many rural schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

(1) there is a serious weakness in the ability of teaching staffs in rural schools to foster a sense of Native traditions and cultures in the Native students;

(2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;

(3) almost no Native students return to rural schools to teach, continuing the imbalance and exacerbating its effects; and

(4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of Natives teaching in rural schools. Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage rural high school graduates to return to rural schools as teachers and relieve the conditions described in this section. (§ 1 ch 121 SLA 1984)

Sec. 14.43.610. Program established. There is established the teacher scholarship loan program to provide an incentive for rural high school graduates to pursue teaching careers in rural elementary and secondary schools in the state. (§ 1 ch 121 SLA 1984)

Sec. 14.43.620. Teacher scholarship revolving loan fund.

(a) There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 — 14.43.700. Unless the instrument evidencing the teacher scholarship loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on a teacher scholarship loan shall be paid into the teacher scholarship revolving loan fund and shall be used to make new teacher scholarship loans. If estimated funds available are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The student financial aid committee created under AS 14.43.095 may sell or assign notes and other instruments evidencing teacher scholarship loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the student loan fund created under AS 14.42.210 and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of the notes or other instruments shall be deposited in the teacher scholarship revolving loan fund. (§ 1 ch 121 SLA 1984; am §§ 13, 14 ch 92 SLA 1987)

Effect of amendments. - The 1987 amendment substituted "Unless the instrument evidencing the teacher scholarship loan has been sold or assigned to the Alaska Student Loan Corporation" for "All" and "a teacher scholarship loan" for "teacher scholarship loans" in the third sentence and in the last sentence deleted "from teacher scholarship loan repayments" following "funds available"; and added subsection (b).

Sec. 14.43.630. Administration. (a) The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall

(1) allocate the loan awards available for teacher scholarship loans annually to local school boards giving a preference to rural school districts; and

(2) develop and distribute to the local school boards an application form for teacher scholarship loans; the form shall include a requirement that the applicant supply a high school academic transcript and a statement of intent to enter a teaching career at the elementary or secondary school level in the state.

(b) The local school boards shall select the recipients of the teacher scholarship loans according to the criteria in AS 14.43.650. (§ 1 ch 121 SLA 1984)

Sec. 14.43.640. Conditions of loans. (a) The conditions provided in AS 14.43.120 apply to teacher scholarship loans except as otherwise provided in this section.

(b) If a borrower meets the conditions provided in (a) of this section and is employed as a teacher in a rural elementary or secondary school, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

- (1) one year employment, 15 percent;
 - (2) two years employment, an additional 15 percent;
 - (3) three years employment, an additional 15 percent;
 - (4) four years employment, an additional 25 percent;
 - (5) over four years employment, an additional 30 percent.
- (c) A loan may not exceed \$7,500 in a school year.

(d) Proceeds from a teacher scholarship loan may be used only for undergraduate expenses of books, tuition, required fees, room and board, and the transportation expense for two round trips between the loan recipient's home and school. (§ 1 ch 121 SLA 1984; am § 15 ch 92 SLA 1987)

Editor's notes. — This section is set out above to correct a minor error in the main pamphlet.

Effect of amendments. — The 1987 14.43.120(j)" in the introductory language amendment deleted "notwithstanding AS of subsection (b).

Sec. 14.43.650. Selection criteria. (a) To be eligible for a teacher scholarship loan, a student must

- (1) be a graduate of a public or private high school in the state, with sufficient credits to be admitted to an accredited college or university;
- (2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level;
- (3) meet the conditions set by the student's local school board with respect to the district's requirements for teachers in particular subject areas;
- (4) submit to the local school board an application provided by the student financial aid committee under AS 14.43.630(a)(2); an applica-

tion may be submitted six months before graduation from high school; and

(5) not have a past due child support obligation established by court order or by the child support enforcement division under AS 47.23.160 — 47.23.220 at the time of application.

(b) A local school board shall award teacher scholarship loans giving a preference to applicants from rural schools who meet the qualifications for a loan and taking into account the applicants' academic records.

(c) A student may not be awarded a teacher scholarship loan under AS 14.43.600 — 14.43.700 if a family education loan is made on behalf of the student under AS 14.43.710 — 14.43.790 or if the student receives a scholarship loan under AS 14.43.090 — 14.43.160 for the same school year. (§ 1 ch 121 SLA 1984; am § 3 ch 116 SLA 1986; am § 16 ch 92 SLA 1987)

Effect of amendments. — The 1986 amendment added paragraph (a)(5) and made related technical changes.

The 1987 amendment rewrote subsection (c).

Legislative history reports. — For legislative letter of intent, see 1984 Senate Journal at p. 3117.

Sec. 14.43.700. Definition. In AS 14.43.600 — 14.43.700, "rural" means

(1) a community in the second, third, or fourth judicial district of the state with a population of 4,500 or less that is not connected by road or rail to Anchorage or Fairbanks; or

(2) a community in the first judicial district of the state with a population of 4,500 or less. (§ 1 ch 121 SLA 1984)

Article 8. Alaska Family Education Loan Program.

Section

710. Program established
720. Family education loan account
730. Administration

Section

740. Loan terms and conditions
750. Eligibility
790. Definitions

Sec. 14.43.710. Program established. The Alaska family education loan program is established to provide low interest loans to families to assist in paying the costs of postsecondary education for family members. (§ 17 ch 92 SLA 1987)

Sec. 14.43.720. Family education loan account. (a) The family education loan account is created within the scholarship revolving loan fund (AS 14.43.090). The account shall be used to make family education loans to families selected under AS 14.43.710 — 14.43.790, to pay the costs of collecting family education loans that are in default if those costs are not recovered from the family, and to pay the costs of

administering the account. Unless the instrument evidencing the family education loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on family education loans shall be paid into the family education loan account. If estimated funds available from family education loan repayments are inadequate to fully fund estimated family education loans in a fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The student financial aid committee created under AS 14.43.095 may sell or assign notes and other instruments evidencing family education loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the student loan fund created under AS 14.42.210, and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of notes and other instruments shall be deposited in the family education loan account. (§ 17 ch 92 SLA 1987)

Sec. 14.43.730. Administration. The family education loan program shall be administered by the student financial aid committee (AS 14.43.095) under regulations adopted by the committee. (§ 17 ch 92 SLA 1987)

Sec. 14.43.740. Loan terms and conditions. (a) The provisions of AS 14.43.100, 14.43.110, 14.43.115, 14.43.120(a) — (d), (i), (m), and (r), and 14.43.135 apply to a loan made under AS 14.43.710 — 14.43.790.

(b) The provisions of AS 14.43.120(p) apply to a loan made under AS 14.43.710 — 14.43.790 with respect to the family member on whose behalf a loan is made.

(c) Interest on a loan made under AS 14.43.710 — 14.43.790 is at a rate of five percent a year unless the loan is in default. Interest on a loan that is in default is 10 percent a year.

(d) Repayment of the principal and interest on a loan made under AS 14.43.710 — 14.43.790 begins on the first of the month immediately following loan disbursement. The loan may be cancelled without prejudice at any time before actual disbursement. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement.

(e) Provision shall be made for payment by the borrower of fees and costs incurred in collection of delinquent or defaulted loans. (§ 17 ch 92 SLA 1987)

Sec. 14.43.750. Eligibility. (a) A person may apply for and obtain a family education loan on behalf of a family member if

(1) the borrower is a resident of the state at the time of application for the loan; for purposes of this paragraph, a borrower qualifies as a resident of the state if the borrower has been physically present in the state for at least two years immediately before the time of application for the loan;

(2) the family member has been claimed as a dependent for federal tax purposes by the borrower for the tax year immediately before the time of application and

(A) is enrolled as a full-time student in a career education, associate, baccalaureate, or graduate degree program; or

(B) is a graduate of a high school or the equivalent, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university; and

(3) neither the borrower nor the family member is delinquent or in default on a previously awarded student loan from the state.

(b) A family education loan may not be made on behalf of a family member if the family member receives a scholarship loan under AS 14.43.090 — 14.43.160 or a teacher scholarship loan under AS 14.43.600 — 14.43.700 for the same school year. (§ 17 ch 92 SLA 1987)

Sec. 14.43.790. Definitions. (a) In AS 14.43.710 — 14.43.790

(1) "default" means a loan that is 120 days or more past due in repayment;

(2) "delinquent" means a loan that is 60 days or more past due in repayment.

(b) The definitions set out in AS 14.43.160 apply to AS 14.43.710 — 14.43.790. (§ 17 ch 92 SLA 1987)

Article 9. General Provisions.

Section

910. Confidentiality of financial need information

Sec. 14.43.910. Confidentiality of financial need information.

All information submitted in support of a determination of financial need as provided in this chapter is confidential. However, an applicant may inspect or copy information from the applicants' application, or records relating to the applicant's own application, or authorize release of the application or records to designated individuals or organizations. (§ 1 ch 51 SLA 1978)

Revisor's notes. — Formerly AS
14.40.955. Renumbered as AS 14.43.425
in 1982. Renumbered again in 1987.

Chapter 44. Interstate Education Compacts.

Article

1. Western Regional Higher Education Compact (§§ 14.44.010 -- 14.44.035)
2. Compact for Education (§§ 14.44.050 -- 14.44.060)

Article 1. Western Regional Higher Education Compact.

Section

10. Ratification, approval, and adherence
15. Terms and provisions of Compact
20. Execution of Compact by governor

Section

25. Provisions of services
30. Members of the commission
35. Administration

Sec. 14.44.010. Ratification, approval, and adherence. The Western Regional Higher Education Compact, recommended by the Western Governors' Conference on November 10, 1950, for adoption by the states or territories of Alaska, Arizona, California, Colorado, Idaho, Hawaii, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, is ratified and approved and the adherence of this state to this Compact, upon its ratification and approval by four or more of these states or territories in addition to this state, is declared. (§ 1 ch 164 SLA 1955)

Revisor's notes. — Formerly AS
14.40.660. Renumbered in 1982.

Sec. 14.44.015. Terms and provisions of Compact. The terms and provisions of the Compact referred to in AS 14.44.010 are as follows:

WESTERN REGIONAL HIGHER EDUCATION COMPACT

ARTICLE I

Whereas, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

Whereas, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor all of the States have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

Whereas, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and

efficient educational facilities to meet the needs of the Region and of the students thereof:

Now, therefore, the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territories of Alaska and Hawaii do hereby covenant and agree as follows:

ARTICLE II

Each of the compacting states and territories pledge to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this Compact.

ARTICLE III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and to be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

ARTICLE IV

The Commission shall consist of three resident members from each compacting state or territory. At all times one Commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which the commissioner is appointed.

The Commissioners from each state and territory shall be appointed by the Governor thereof as provided by law in such state or territory. Any Commissioner may be removed or suspended from office as provided by the law of the state or territory from which the commissioner shall have been appointed.

The terms of each Commissioner shall be four years; provided however, that the first three Commissioners shall be appointed as follows: one for two years, one for three years, and one for four years. Each Commissioner shall hold office until a successor shall be appointed and qualified. If any office becomes vacant for any reason, the Governor shall appoint a Commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more Commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

ARTICLE VI

The Commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be required to carry out the purpose of this Compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The Commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

ARTICLE VII

The Commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The Chairman may call such additional meetings and upon the request of a majority of the Commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the Governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the Governors and Legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the Governor of any compacting state or territory or designated representatives of the Governor. The Commission shall not be subject to the audit and account-

ing procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

ARTICLE VIII

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements —

(a) with the governing authority of any educational institution in the Region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) with the governing authority of any educational institution in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe.

It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources for meeting such needs, and the long-range effects of the Compact on higher education; and from time to time prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the Governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this Compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

ARTICLE IX

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

ARTICLE X

This Compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1955. This Compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

ARTICLE XI

This Compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and Governor of such terminating state. Any state or territory may at any time withdraw from this Compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the Governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

ARTICLE XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this Compact, all rights, privileges and benefits conferred by this Compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the Commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this Compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by:

(a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the Commission.

ARTICLE XIII

(a) The Western Interstate Commission for Higher Education is authorized to act on behalf of this state in making arrangements for the placement of students in institutions and programs of higher learning outside the states which are parties to the Compact for establishing the Commission. For that purpose, the Commission may negotiate and enter into arrangements and contracts with this state or any appropriate agency of it, with public and private educational institutions and agencies, and with states and other governmental entities. These arrangements and contracts may provide for the obtaining of one or more places for students on either a special or continuing basis; the payment of partial or full tuition and other charges; and the furnishing of reciprocal, compensating or other advantages and benefits in support of the educational program involved.

(b) The authority conferred by (a) of this article shall be exercised only pursuant to written agreement between the Commission and an agency of this state having responsibility for or duties with respect to programs for assisting residents of this state to obtain higher education. Any such agreements shall include provisions for the payment of tuition and any other costs, and no such agreement shall be made which commits this state or any agency or officer of it to any obligation for which funds have not been appropriated or otherwise made available in accordance with law.

(c) Nothing contained in this article alters any of the obligations or restricts or impairs any rights which this state may have under the Compact establishing the Commission. (§ 2 ch 164 SLA 1955; am § 1 ch 70 SLA 1971; am § 7 ch 71 SLA 1972)

Revisor's notes. -- Formerly AS
14.40.670. Renumbered in 1982.

Sec. 14.44.020. Execution of Compact by governor. Upon ratification and approval of the Western Regional Higher Education Compact by four or more of the specified states or territories in addition to this state, the governor shall execute the Compact on behalf of the state and perform other acts requisite to its formal ratification and promulgation. (§ 3 ch 164 SLA 1955)

Revisor's notes. -- Formerly AS
14.40.680. Renumbered in 1982.

Sec. 14.44.025. Provisions of services. State participation under Articles VIII and XIII of the Western Regional Higher Education Compact shall be limited to the provision of adequate services and facilities in the fields of law, dentistry, medicine, osteopathy, public health, veterinary medicine, pharmacy, physical therapy, occupa-

§ 14.44.030 COMPILED SCHOOL LAWS OF ALASKA § 14.44.050

tional therapy, optometry, podiatry, forestry, architecture, graduate nursing, petroleum engineering, maritime technology, and graduate library studies. (§ 2 ch 70 SLA 1971; am § 1 ch 96 SLA 1972; am § 1 ch 78 SLA 1974; am § 1 ch 85 SLA 1977; am § 1 ch 102 SLA 1981)

Revisor's notes. — Formerly AS
14.40.685. Renumbered in 1982.

Sec. 14.44.030. Members of the commission. (a) The governor, with the advice and consent of the legislature, shall appoint the members for this state of the Western Interstate Commission for Higher Education, created under the provisions of Article III of the Western Regional Higher Education Compact.

(b) The qualifications and terms of office of the members of the commission of this state shall conform with the provisions of Article IV of the Compact.

(c) The commissioners shall serve without compensation and shall be reimbursed for actual and necessary expenses by the Western Interstate Commission for Higher Education. (§ 4 ch 164 SLA 1955)

Revisor's notes. — Formerly AS
14.40.690. Renumbered in 1982.

Sec. 14.44.035. Administration. The Alaska Commission on Post-secondary Education shall administer the state's participation in the Western Regional Higher Education Compact. (§ 2 ch 78 SLA 1974)

Revisor's notes. — Formerly AS
14.40.695. Renumbered in 1982.

Article 2. Compact for Education.

Section

- 50. Entry into compact
- 55. Terms and provisions of compact

Section

- 60. Members of the commission

Sec. 14.44.050. Entry into compact. The Compact for Education is enacted into law and entered into in behalf of the State of Alaska with all other states and jurisdictions legally joining in it in a form substantially as contained in AS 14.44.055. (§ 1 ch 168 SLA 1980)

Revisor's notes. — Formerly AS
14.40.700. Renumbered in 1982.

Sec. 14.44.055. Terms and provisions of compact. The terms and provisions of the compact referred to in AS 14.44.050 are as follows:

COMPACT FOR EDUCATION.

ARTICLE I. PURPOSE AND POLICY.

Section A. It is the purpose of this compact to:

(1) establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels;

(2) provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education;

(3) provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education;

(4) facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

Section B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

Section C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

ARTICLE II. THE COMMISSION.

Section A. The Education Commission of the States, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. In addition to any other principles or requirements which a state may establish for

the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education and lay and professional public and nonpublic educational leadership. In addition to the members of the commission representing the party states, there may be not to exceed 10 nonvoting commissioners selected by the steering committee for the terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

Section B. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article III and adoption of the annual report pursuant to Article II(J).

Section C. The commission shall have a seal.

Section D. The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

Section E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

Section F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

Section G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

Section H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

Section I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

Section J. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

ARTICLE III. POWERS.

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

(1) collect, correlate, analyze and interpret information and data concerning educational needs and resources;

(2) encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems;

(3) develop methods for adequate financing of education as a whole and at each of its many levels;

(4) conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private;

(5) formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make

recommendations with respect thereto available to the appropriate governmental units, agencies and public officials;

(6) do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE IV. COOPERATION WITH FEDERAL GOVERNMENT.

Section A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

Section B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE V. COMMITTEES.

Section A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall have a steering committee of 32 members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: 16 for one year and 16 for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

Section B. The commission may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

Section C. The commission may establish such additional committees as its bylaws may provide.

ARTICLE VI. FINANCE.

Section A. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

Section B. The total amount of appropriation requests under any budget shall be apportioned among the party states as follows: one-third in equal shares; and the remainder in proportion to the population of each party state as shown in the most recent decennial census of population taken by the United States Bureau of the Census, or any agency successor thereto.

Section C. The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article II of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to article II(G) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

Section D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

Section E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

Section F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII. ELIGIBLE PARTIES: ENTRY INTO AND WITHDRAWAL.

Section A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

Section B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

Section C. Any party state or jurisdiction may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state or other jurisdiction has given notice in writing of the withdrawal to the governors of all other party states and jurisdictions. No withdrawal shall affect any liability already incurred by or chargeable to a party state or jurisdiction prior to the time of such withdrawal.

ARTICLE VIII. CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

ARTICLE IX. STATE DEFINED.

As used in this compact, "state," means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico. (§ 1 ch 168 SLA 1980)

Revisor's notes. — Formerly AS
14.40.710. Renumbered in 1982.

Sec. 14.44.060. Members of the commission. (a) One of the commission members shall be the governor; one shall be the state commissioner of education; two shall be members of the state legislature selected by its respective houses and serving in the manner the legislature may determine; one shall be the president of the state Board of Education; and two shall be appointed at large by and serve at the pleasure of the governor.

(b) The terms of office of the at-large members shall be four years; however, the first members shall be appointed as follows: one for two years, and one for four years. Each member shall hold office until a successor is appointed and qualified.

(c) The legislative and at-large members of the commission serve without compensation but are entitled to per diem and travel expenses provided by law for other state boards and commissions. (§ 1 ch 168 SLA 1980)

Revisor's notes. — Formerly AS 14.40.720. Renumbered in 1982.

Chapter 45. Private and Denominational Schools.

Article

1. Non-exempt Religious and Private Schools (§ 14.45.030)
2. Exempt Religious and Other Private Schools (§§ 14.45.100 - 14.45.130)
3. General Provisions (§ 14.45.200)

Collateral references. — 68 Am. Jur. 2d Schools, §§ 1307-318.

78 C.J.S. Schools and School Districts, §§ 3-11.

Expulsion or suspension from private school or college. 50 ALR 1497.

Public payment of tuition, scholarship, or the like, as respects sectarian school. 81 ALR2d 1309.

Tort liability of private schools and institutions of higher learning for accidents due to condition of buildings, equipment or outside premises. 35 ALR3d 975.

Tort liability of private schools and in-

stitutions of higher learning for negligence of, or lack of supervision by, teachers and other employees or agents. 38 ALR3d 908.

Constitutionality, under state constitutional provision forbidding financial aid to religious sects, of public provision of schoolbus service for private school pupils. 41 ALR3d 344.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Article 1. Non-exempt Religious and Private Schools.

Section

30. Non-exempt schools

Sec. 14.45.010. Teachers to secure certificates. (Repealed, § 59 ch 98 SLA 1966.)

Sec. 14.45.020. Commissioner may furnish examination questions for and grant diplomas to eighth grade pupils. (Repealed, § 6 ch 11 SLA 1984.)

Sec. 14.45.030. Non-exempt schools. Teachers and others in charge of religious or other private schools not operated in compliance with AS 14.45.100 — 14.45.130 are not exempt from laws and regulations relating to education. Non-exempt schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools. (§ 37-11-3 ACLA 1949; am § 4 ch 11 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote the section.

Article 2. Exempt Religious and Other Private Schools.

Section	Section
100. Exemption	120. Standardized testing requirements
110. Requirements of exempt schools	130. Records

Cross references. — For legislative purpose of 1984 enactment, see § 1, ch. 11, SLA 1984 in the Temporary and Special Acts.

Sec. 14.45.100. Exemption. A religious or other private school that complies with AS 14.45.100 — 14.45.130 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations. (§ 5 ch 11 SLA 1984)

Sec. 14.45.110. Requirements of exempt schools. (a) The parent or guardian of a child of compulsory school age enrolled in a religious or other private school that complies with AS 14.45.100 — 14.45.130 shall file an annual notice of enrollment in the school for the child with the local public school superintendent for the area in which the child resides on a form provided by the department. The form shall be signed by the parent or guardian and the chief administrative officer of the school and returned to the local public school superintendent by the parent or guardian. The school shall notify the local public school superintendent within a reasonable time if the child is no longer enrolled in or attending the school.

(b) A religious or other private school that elects to comply with AS 14.45.100 — 14.45.130 shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar. (§ 5 ch 11 SLA 1984)

Sec. 14.45.120. Standardized testing requirements. (a) A religious or other private school that elects to comply with AS 14.45.100 — 14.45.130 shall administer a nationally standardized test selected by the chief administrative officer of the school to all students enrolled in grades four, six and eight at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious or other private school that elects to comply with AS 14.45.100 — 14.45.130 shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student. Each school shall make composite test results for the school available annually to an authorized representative of the department. The composite test results of a religious or other private school operated in compliance with AS 14.45.100 — 14.45.130 are not public information unless each public school

(1) is also required to administer a nationally standardized test that measures achievement in English grammar, reading, spelling, and mathematics; and

(2) the composite test results for each public school are public information. (§ 5 ch 11 SLA 1984)

Sec. 14.45.130. Records. (a) A religious or other private school that elects to comply with AS 14.45.100 — 14.45.130 shall maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school.

(b) The chief administrative officer of a school that elects to comply with AS 14.45.100 — 14.45.130 shall certify to the department, under oath or by affirmation, that the records required under (a) of this section are being maintained. (§ 5 ch 11 SLA 1984)

Article 3. General Provisions.

Section 200. Definitions

Sec. 14.45.200. Definitions. In this chapter

(1) "private school" means a school that does not receive direct state or federal funding;

(2) "religious school" means a private school operated by a church or other religious organization that does not receive direct state or federal funding. (§ 5 ch 11 SLA 1984)

Revisor's notes. — Enacted as AS
14.45.140. Renumbered in 1984.

Chapter 47. Regulation of Educational Institutions.

(Repealed, § 5 ch 25 SLA 1976.)

Chapter 48. Regulation of Postsecondary Educational Institutions.

Section	Section
10. Purposes	120. Revocation
20. Authorization and permits required	130. Complaints
30. Exemptions	140. Judicial review
40. Commission to administer chapter	150. Preservation of records
60. Powers and duties of commission	160. Enforceability of notes and contracts
60. Minimum standards	170. Jurisdiction
70. Authorization to operate	180. Enforcement: Injunction
80. Agent's permit	190. Violations: Civil penalty
90. Fees	200. Criminal violation
100. Bonds	210. Definitions
110. Denial	

Collateral references. — 15A Am. Jur. 2d Colleges and Universities, §§ 5-10.	immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.
14 C.J.S. Colleges and Universities, §§ 1-6.	Immunity of private schools and institutions of higher learning from liability in tort. 38 ALR3d 480.
Modern status of doctrine of sovereign	

Sec. 14.48.010. Purposes. (a) It is the purpose of this chapter to provide for the protection, education, and welfare of the citizens of the state, its postsecondary educational institutions, and its students, by

(1) establishing minimum standards concerning quality of education, ethical and business practices, health and safety, and fiscal responsibility, to protect against substandard, transient, unethical, deceptive, or fraudulent institutions and practices;

(2) prohibiting the granting of false or misleading educational credentials;

(3) regulating the use of academic terminology in designating educational institutions;

(4) prohibiting misleading literature, advertising, solicitation, or representation by educational institutions or their agents;

(5) providing for the preservation of essential academic records; and

(6) providing certain rights and remedies to the public and the commission necessary to carry out the purposes of this chapter.

(b) This chapter may not be construed to preclude the development of innovative, alternative postsecondary educational delivery systems or programs if their purposes and their administration, operation or management are in the public interest and do not conflict with those purposes set out in (a) of this section. (§ 1 ch 25 SLA 1976)

Sec. 14.48.020. Authorization and permits required. A person may not

(1) operate a postsecondary educational institution in the state unless the institution has a valid authorization to operate issued under this chapter or is exempt from the provisions of this chapter;

(2) offer itself or through an agent enrollment or instruction in, or the granting of educational credentials from, a postsecondary educational institution, whether the institution is in or outside the state, unless the agent is a natural person and has a currently valid agent's permit issued under this chapter or is exempt from the provisions of this chapter;

(3) accept contracts or enrollment applications of prospective students from an agent who does not have a current permit as required by this chapter; however, the commission may adopt regulations to permit the rendering of legitimate public information services without the permit;

(4) instruct or educate, or offer to instruct or educate, enroll or offer to enroll, contract or offer to contract or award an educational credential, or contract with an institution or person to do so, in or outside the state, unless that person is in compliance with the minimum standards set out in AS 14.48.060, the criteria established by the commission under AS 14.48.050(1), and the regulations adopted by the commission under AS 14.48.050(7);

(5) use the term "university" or "college" without authorization to do so from the commission;

(6) grant, or offer to grant, educational credentials, without authorization to do so from the commission. (§ 1 ch 25 SLA 1976)

NOTES TO DECISIONS

Quoted in State, Dep't of Educ. v. Nickerson, Sup. Ct. Op. No. 3006 (File No. S-720), 711 P.2d 1165 (1985).

Collateral references. — Grounds for ousting educational corporation of its franchise. 46 ALR 1478.

Sec. 14.48.030. Exemptions. (a) Institutions exclusively offering instruction at one, some or all levels from preschool through grade 12 are exempt from the provisions of this chapter.

(b) The following educational programs or services and educational institutions are exempt from the provisions of this chapter or portions of them, as determined by the commission:

(1) education sponsored by a bona fide trade, business, labor, professional, or fraternal association or organization, recognized by the commission and conducted solely for that association's or organization's membership, or offered on a no-fee basis;

(2) education solely avocational or recreational in nature and institutions offering avocational or recreational education exclusively;

(3) education offered by charitable organizations, recognized by the commission, if the education is not advertised or promoted as leading toward educational credentials;

(4) nonprofit postsecondary educational institutions offering undergraduate or graduate educational programs conducted in the state, but not by correspondence, which are acceptable for credit toward an associate, bachelor's or graduate degree;

(5) postsecondary educational institutions established, operated, and governed by the United States, a state or its political subdivisions. (§ 1 ch 25 SLA 1976; am § 1 ch 50 SLA 1977)

Sec. 14.48.040. Commission to administer chapter. The Alaska Commission on Postsecondary Education shall administer this chapter and may hire necessary personnel. The commission may obtain from departments, commissions and other state agencies information and assistance needed to carry out the provisions of this chapter. (§ 1 ch 25 SLA 1976)

Sec. 14.48.050. Powers and duties of commission. The commission shall

(1) establish minimum criteria consistent with AS 14.48.060 including quality of education, ethical and business practices, health and safety and fiscal responsibility which applicants for authorization to operate, or for an agent's permit, must meet before the authorization or permit is issued;

(2) receive, investigate and act upon applications for authorization to operate postsecondary educational institutions and applications for agent's permits;

(3) maintain a list of postsecondary educational institutions and agents authorized to operate in the state under this chapter;

(4) keep current and make available as public information the list of institutions and agents;

(5) enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the commission the agreements will be helpful in carrying out the purposes of this chapter;

(6) receive and maintain as a permanent file, copies of academic records maintained in accordance with AS 14.48.060(b)(6);

(7) adopt regulations and procedures necessary or appropriate for the conduct of its work and the implementation of this chapter under the Administrative Procedure Act (AS 44.62);

(8) investigate on its own initiative or in response to a complaint lodged with it, persons subject to, or reasonably believed by the commission to be subject to, the jurisdiction of this chapter; and in connection with the investigation subpoena persons, books, records, or documents related to the investigation; require answers in writing under oath to questions propounded by the commission and administer oaths or affirmations to persons in connection with the investigation; and, for the purpose of examination at all reasonable times, shall have access to, and the right to copy, documentary evidence of a corporation that is under investigation or being proceeded against;

(9) exercise other necessary powers and duties in conformity with the provisions of this chapter which, in the judgment of the commission, are necessary to carry out the provisions of this chapter. (§ 1 ch 25 SLA 1976)

Collateral references. — Power of legislature to impose noneducational function upon state educational institution or instructors therein. 67 ALR 1032.

Admission charges or other receipts from extracurricular activities of schools as subject to taxation. 115 ALR 1411.

Sec. 14.48.060. Minimum standards. (a) In establishing the criteria required by AS 14.48.050(1), the commission shall require compliance with the minimum standards set out in (b) of this section.

(b) A postsecondary educational institution must be maintained and operated, or, in the case of a new institution must demonstrate that it can be maintained and operated so that

(1) the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered;

(2) the institution has or has access to adequate space, equipment, instructional materials, and personnel where applicable to achieve the stated objective of the course or program of study and to provide education of good quality;

(3) the education or experience qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive education consistent with the objectives of the course or program of study;

(4) the institution provides a catalog or brochure containing information describing the programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and other material facts concerning the institution and the program or course of instruction which are reasonably likely to affect the decision of the student to enroll, together with any other disclosures specified by the commission by regulation; and that this information is provided to prospective students before enrollment;

(5) upon satisfactory completion of training, the student is given appropriate educational credentials by the institution, indicating that the course of instruction or study has been satisfactorily completed by the student;

(6) adequate records are maintained by the institution to show attendance, progress, or grades, and that satisfactory standards are enforced relating to attendance, progress and performance;

(7) the institution is maintained and operated in compliance with all pertinent ordinances and laws relating to the safety and health of persons upon the premises of the institution;

(8) the institution is financially sound and capable of fulfilling its commitments to students;

(9) neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices which are false, deceptive, misleading, or unfair;

(10) the chief executive officer, trustees, directors, owners, administrators, supervisors, staff, and instructors of the institution are of good reputation and character and have not been convicted of a violation of AS 14.48.020 or 14.48.150 or AS 45.50.471 — 45.50.551 or a comparable law in another state or province;

(11) the student housing owned, maintained, or approved by the institution is appropriate, safe, and adequate;

(12) the institution has a fair and equitable cancellation and refund policy; and

(13) the charges set by the institution for tuition, fees, books, and supplies are fair and equitable.

(c) Accreditation by national or regional accrediting agencies recognized by the commission may be accepted by the commission as evidence of compliance with the minimum standards established by this section and the criteria established under AS 14.48.050(1). However, the commission may require further evidence and make further investigation as may be necessary. Accreditation by a recognized, specialized accrediting agency may be accepted as evidence of compliance only as to the portion or program of an institution accredited by the accrediting agency if the institution as a whole is not accredited. (§ 1 ch 25 SLA 1976; am § 2 ch 64 SLA 1986)

Effect of amendments. — The 1986 amendment added paragraph (13) of subsection (b).

Sec. 14.48.070. Authorization to operate. (a) Each postsecondary educational institution desiring to operate in this state shall apply to the commission, upon forms provided by the commission. The application shall be accompanied by a catalog or brochure published, or proposed to be published by the institution, containing the information specified in AS 14.48.060(b)(4). The application shall also be accompanied by evidence of a surety bond or other deposit as required by AS 14.48.100, and by the required fees.

(b) Following review of the application and after necessary investigation of the applicant the commission shall either grant or deny authorization to operate to the applicant. A grant of authorization to operate may be on those terms and conditions the commission may prescribe.

(c) The authorization to operate shall be in a form approved by the commission and shall include

- (1) the date of issuance, effective date, and term of approval;
- (2) the name and address of the institution;
- (3) the authority for approval;
- (4) any condition or limitation of the authorization, as considered necessary by the commission.

(d) The term for which an initial authorization is given may not exceed two years, and may be issued for a lesser period of time. A subsequent authorization may be issued for a period up to five years.

(e) The authorization to operate shall be issued to the owner, or governing body, of the applicant institution, and shall be nontransferable. In the event of a change in ownership or management of the institution, a new owner or manager, or governing body, must, within 30 days after the change in ownership is effective, apply for a new authorization to operate, and if the new application is not made the institution's authorization to operate shall terminate. Application for a new authorization to operate by reason of change in ownership of the institution is considered an application for renewal under (f) of this section.

(f) At least 60 days before the expiration of an authorization to operate, the institution shall complete and file with the commission an application form for renewal of its authorization to operate. The renewal application shall be reviewed and acted upon as provided for an original application.

(g) An institution not yet in operation when its application for authorization to operate is filed may not begin operation until receipt of authorization. An institution in operation when its application for authorization to operate is filed may continue operation until its ap-

plication is acted upon by the commission. The commission may issue provisional authorization to operate, containing limitations as to time, procedures, functions, or other conditions as the commission considers necessary. (§ 1 ch 25 SLA 1976; am § 2 ch 50 SLA 1977)

Collateral references. — Power of corporation organized for religious, educational, or charitable purpose, to engage in enterprise for profit. 100 ALR 579.

Sec. 14.48.080. Agent's permit. (a) A person desiring to solicit or perform the services of an agent, in this state, shall apply to the commission upon forms provided by the commission. The application shall be accompanied by evidence of the good reputation and character of the applicant and shall state the institution which the applicant intends to represent. An agent representing more than one institution must obtain a separate agent's permit for each institution represented. However, when an agent represents institutions having a common ownership, only one agent's permit is required. If an institution which the applicant intends to represent does not have authorization to operate in this state, the application shall be accompanied by the information required of institutions making application for authorization. The application for an agent's permit shall also be accompanied by evidence of a surety bond or other deposit as required by AS 14.48.100, and by payment of the required fees.

(b) An applicant for an agent's permit shall be an individual of good reputation and character and shall represent only a postsecondary educational institution or institutions which meet the minimum standards established in this section and the criteria established under AS 14.48.050(1).

(c) Following review of the application and any further information submitted by the applicant, and investigation of the applicant as the commission considers necessary, the commission shall either grant or deny an agent's permit to the applicant.

(d) The agent's permit shall be in a form approved by the commission and shall include

- (1) the date of issuance, effective date, and term;
- (2) the correct name and address of the agent;
- (3) the institution or institutions which the agent is authorized to represent.

(e) The term for which an agent's permit is issued may not extend for more than two years, and may be issued for a lesser period of time.

(f) At least 60 days before the expiration of an agent's permit, the agent shall complete and file with the commission an application form for renewal. The renewal application shall be reviewed and acted upon as provided for an original application. (§ 1 ch 25 SLA 1976; am § 3 ch 50 SLA 1977)

NOTES TO DECISIONS

Quoted in *State, Dep't of Educ. v. Nickerson*, Sup. Ct. Op. No. 3005 (File No. S-720), 711 P.2d 1165 (1985).

Sec. 14.48.090. Fees. (a) The following fees shall accompany an application for an authorization to operate or an application for an agent's permit and shall be collected by the commission:

- | | |
|--|-------|
| (1) authorization to operate | \$100 |
| (2) renewal for authorization to operate | \$100 |
| (3) an agent's permit | \$ 50 |
| (4) renewal for an agent's permit | \$ 50 |

(b) Fees collected under this chapter shall be deposited in the general fund. The commissioner of administration shall separately account for all fees that are collected and deposited under this section. The annual estimated balance in the account may be used by the legislature to make appropriations to the commission to carry out the purposes of this chapter. (§ 1 ch 25 SLA 1976; am § 24 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment added the second and third sentences in subsection (b).

Sec. 14.48.100. Bonds. (a) At the time application is made for authorization to operate, or for renewal of an authorization to operate the commission may require the postsecondary educational institution to file a surety bond in the amount determined by the commission. The amount shall be determined by the number of students the institution seeks to enroll. The amount of the surety bond shall be reexamined by the commission upon each renewal of the authorization to operate to determine if a larger or smaller bond would be appropriate to ensure adequate protection for the students or enrollees, or their parents or guardians, or classes thereof. The bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state and shall be conditioned to provide indemnification to any student or enrollee, or the student's or enrollee's parent or guardian, or class thereof, determined to have suffered loss or damage as a result of an act or practice which is a violation of this chapter by the postsecondary educational institution and that the bonding company shall pay a final nonappealable order of the commission or judgment of a court of this state having jurisdiction, upon receipt of written notification of the order or judgment. The aggregate liability of the surety for the bond of the institution or agent involved in the order or judgment may not, in any event, exceed the amount of the bond.

(b) An application for an agent's permit shall be accompanied by a surety bond in the amount determined by the commission to be necessary for the protection of the students or enrollees, or their parents or guardians, or classes of these, or to reflect an institution's volume of business in the state. The bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond shall be conditioned to provide indemnification to any student or enrollee or the student's or enrollee's parents or guardian, or class of these, determined to have suffered loss or damage as a result of an act or practice which is a violation of this chapter by the agent.

(c) The surety bond to be filed under this section shall cover the period of the authorization to operate or the agent's permit, as appropriate, except when a surety is released as provided in this subsection. A surety on a bond filed under this section may be released from that bond after the surety serves written notice of the release to the commission and to the bonded agent or institution 45 days before the release. However, the release does not discharge or otherwise affect a claim filed by a student or enrollee, or a parent or guardian, or class thereof, before or after the release for loss or damage resulting from an act or practice which is a violation of this chapter alleged to have occurred while the bond was in effect or for an institution's ceasing operations during the term for which tuition has been paid while the bond was in force.

(d) Authorization for an institution to operate and an agent's permit shall be suspended by operation of law when the institution or agent is no longer covered by a surety bond as required by this section. However, the commission shall give the institution or agent, or both, at least 30 days written notice before the release of the surety, to the effect that the authorization or permit shall be suspended by operation of law until another surety bond is filed in the same manner as, and in a like amount to, the bond being terminated.

(e) In lieu of the surety bond required in (a) and (b) of this section, the applicant may file with the commission a cash deposit or other negotiable security, acceptable to the commission, in the amount specified for bonds. (§ 1 ch 25 SLA 1976; am §§ 4, 5 ch 50 SLA 1977)

Sec. 14.48.110. Denial. If the commission, upon review of an application for authorization to operate, or an application for an agent's permit determines that the application should be denied, the commission shall notify the applicant, setting out the reasons in writing. The Administrative Procedure Act (AS 44.62) governs the review of a denial under this section. (§ 1 ch 25 SLA 1976)

Sec. 14.48.120. Revocation. (a) An authorization to operate or an agent's permit may be revoked or conditioned if the commission has reasonable cause to believe that the holder of the authorization or permit is violating or has violated this chapter or AS 45.50.471 or regulations adopted under this chapter or AS 45.50.491. Except as provided in (b) of this section, the Administrative Procedure Act (AS 44.62) governs the procedure for a revocation, review of a revocation, or other action under this section.

(b) Authorization for an institution to operate, and a permit for an agent representing that institution, are revoked 30 days after the institution ceases to operate. The commission shall give the institution and the agent 15 days' written notice, by certified mail, sent return receipt requested, to the last addresses of the institution and agent.

(c) The institution and the agent may appeal a revocation under (b) of this section by filing an appeal in writing with the commission within 30 days after the revocation. (§ 1 ch 25 SLA 1976; am §§ 3, 4 ch 64 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (a) substituted "adopted" for "promulgated" in the first sentence and substituted "Except as provided in (b) of this section, the" for "The" in the second sentence and added subsections (b) and (c).

Sec. 14.48.130. Complaints. (a) A person claiming damage or loss as a result of an act or practice by a postsecondary educational institution or its agent, or both, which is a violation of this chapter or of the regulations adopted under this chapter may file with the commission a complaint against the institution or against its agent or both. The complaint shall set out the alleged violation and shall contain other information as may be required by the commission. A complaint may also be filed by the commission on its own motion or the attorney general. A complainant may file with the commission as a representative of a class of complainants.

(b) The commission shall investigate the complaint and may attempt to effect a settlement by persuasion and conciliation. The commission may consider a complaint after 30 days written notice by registered mail to the institution or agent, or both, giving notice of a time and place for hearing on the complaint. The hearing shall be conducted in accordance with the Administrative Procedure Act (AS 44.62).

(c) If, upon the evidence at a hearing, the commission finds that a postsecondary educational institution or its agent, or both, has engaged in or is engaging in, an act or practice which violates this chapter or the regulations adopted under this chapter the commission shall serve upon the institution or agent or both, an order requiring the institution or agent or both to cease and desist from the act or

practice. If the commission finds that the complainant, or class of complainants, has suffered loss or damage as a result of the act or practice, the commission may also award the complainant, or class of complainants, full or partial restitution for the damage or loss and may impose the penalties provided for in AS 14.48.180. The commission may also, based on its own investigation and the evidence adduced at the hearing, begin an action to revoke an institution's authorization to operate or an agent's permit. (§ 1 ch 25 SLA 1976)

Sec. 14.48.140. Judicial review. A final administrative order issued by the commission is subject to judicial review under the Administrative Procedure Act (AS 44.62). (§ 1 ch 25 SLA 1976)

Sec. 14.48.150. Preservation of records. (a) If a postsecondary educational institution proposes to discontinue its operation, the chief administrative officer of the institution shall file with the commission the original or legible true copies of academic records of the institution as specified by the commission. The records shall include that academic information customarily required by colleges when considering students for transfer or advanced study and the academic record of each former student.

(b) If it appears to the commission that records of an institution discontinuing its operations are in danger of being destroyed or otherwise made unavailable to the commission, the commission may seize the records, under an order of the superior court. The commission shall maintain a permanent file of records coming into its possession under this section. (§ 1 ch 25 SLA 1976)

Sec. 14.48.160. Enforceability of notes and contracts. (a) If a person to whom educational services are to be furnished by a postsecondary educational institution is a resident of this state at the time a contract relating to payment for the services, or a note, instrument, or other evidence of indebtedness relating to the services, is entered into, the provisions of this section govern the rights of the parties to the contract or evidence of indebtedness. The following agreements or provisions of an agreement entered into in connection with the contract or the giving of evidence of indebtedness are invalid:

- (1) that the law of another state shall apply;
- (2) that the maker or person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) that another person is authorized to confess judgment on the contract or evidence of indebtedness;
- (4) that venue is fixed in a particular place.

(b) No note, instrument or other evidence of indebtedness, or contract relating to payment for education or educational services is enforceable in the courts of this state by (1) a postsecondary educational

institution operating in this state unless the institution has authorization to operate under this chapter, or (2) a postsecondary educational institution having an agent in this state unless the agent had an agent's permit issued under this chapter authorizing the enrolling of or the seeking to enroll a person for educational services.

(c) A lending agency extending credit or loaning money to a person for tuition, fees, or other charges of a postsecondary educational institution for educational or other services or facilities to be rendered by the institution, shall conspicuously mark "student loan" on the face of a note, instrument, or other evidence of indebtedness taken in connection with the loan or extension of credit. If the lending agency fails to do so, it is liable for loss or damage suffered by a subsequent assignee, transferee, or holder of the evidence of indebtedness because of the absence of the notation. Notwithstanding the presence or absence of the notation, and notwithstanding an agreement to the contrary, the lending agency making the loan or extending the credit, and a transferee, assignee, or holder of the evidence of indebtedness is subject to all defenses and claims which could be asserted against the postsecondary educational institution which was to render the services or facilities, by any party to the evidence of indebtedness or by the person to whom the services or facilities were to be rendered, up to the amount remaining to be paid. For purposes of this section, "lending agency" means postsecondary educational institution, or a person controlling, controlled by, or held in common ownership with, a postsecondary educational institution, or regularly loaning money to, or to students of, a postsecondary educational institution. (§ 1 ch 25 SLA 1976)

Sec. 14.48.170. Jurisdiction. A postsecondary educational institution that is not exempt from the provisions of this chapter, whether or not a resident of, or having a place of business in, this state, which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, contracts or offers to contract, to provide instructional or educational services in this state, whether the instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards educational credentials to a person in or resident of this state, submits the institution, and, if a natural person the personal representative of the institution, to the jurisdiction of the courts of this state concerning a cause of action arising from these activities and for the purpose of enforcement of this chapter by injunction under AS 14.48.180. (§ 1 ch 25 SLA 1976)

Sec. 14.48.180. Enforcement: Injunction. (a) The attorney general at the request of the commission or on motion of the attorney general, may bring an action or proceeding in a court of competent jurisdiction for the enforcement of the provisions of this chapter.

(b) When it appears to the commission that a person is, is about to, or has violated a provision of this chapter or a regulation adopted under this chapter, the commission may, on its own motion or on the written complaint of any person, file a petition for injunction in the name of the commission in a court of competent jurisdiction against the person for the purpose of enjoining the violation or for an order directing compliance with the provisions of this chapter. It is not necessary that the commission allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to other legal remedies available to the commission and is in addition to the right of criminal prosecution. However, the commission may not obtain a temporary restraining order without notice to the person affected. (§ 1 ch 25 SLA 1976)

Sec. 14.48.190. Violations: Civil penalty. A person who violates the provisions of AS 14.48.020, or who fails or refuses to deposit with the commissioner the records required by AS 14.48.150 is subject to a civil penalty of not more than \$1,000 for each violation. Each day's failure to comply with the provisions of AS 14.48.020 and 14.48.150 constitutes a separate violation. The fine may be imposed by the commission in an administrative proceeding or by a court of competent jurisdiction. (§ 1 ch 25 SLA 1976)

Sec. 14.48.200. Criminal violation. A person who wilfully violates the provisions of AS 14.48.020 or who wilfully fails or refuses to deposit with the commission the records required by AS 14.48.150 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both. Each day's failure to comply is a separate violation. (§ 1 ch 25 SLA 1976)

Sec. 14.48.210. Definitions. In this chapter

(1) "agent" or "agents" mean persons owning an interest in, employed by, or representing for remuneration, a postsecondary educational institution in or outside the state who, by solicitation made in the state, enroll or seek to enroll residents of the state for education offered by the institution, or offer to award educational credentials for remuneration, on behalf of the institution, or who hold themselves out to residents of the state as representing a postsecondary educational institution for any purpose;

(2) "agent's permit" means a nontransferable written authorization issued to a natural person by the commission which allows that person

to solicit or enroll a resident of the state for education in a postsecondary educational institution;

(3) "authorization to operate" means approval of the commission to operate or to contract to operate a postsecondary educational institution in the state;

(4) "commission" means the Alaska Commission on Postsecondary Education;

(5) "education" or "educational program or services" or like term includes any class, course, or program of training, instruction, or study;

(6) "educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution;

(7) "owner" means

(A) a person having at least a 10 per cent interest in the stock of a postsecondary educational institution that is a corporation;

(B) a partner of a postsecondary educational institution that is a partnership; or

(C) a person having a direct financial interest in, or title to, at least 10 per cent of the assets of a postsecondary educational institution which is neither a partnership nor a corporation; however,

(D) "owner" does not include a financial institution holding a mortgage on some or all of the real property or a security interest in some or all of the personal property of a postsecondary educational institution;

(8) "postsecondary educational institution" includes an academic, vocational, technical, home study, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance for attainment of educational, professional, or vocational objectives;

(9) "to grant" includes awarding, selling, conferring, or giving;

(10) "to offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging persons directly or indirectly to perform the act described;

(11) "to operate a postsecondary institution" means to establish, or maintain a facility or location in the state where education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to operate an educational institution. (§ 1 ch 25 SLA 1976)

Chapter 50. Federal Aid for Education.

Section	Section
10. Acceptance of federal funds	60. Apportionment of federal aid granted without limitations as to use
20. Definition of public schools for purposes of Statehood Act	70. Use of line item appropriations for matching purposes
30. Declaration of intent	80. Consent to reasonable conditions
40. Expenditure of state and federal funds for teachers' salaries	
50. Expenditure of state and federal money for school construction	

Collateral references. — 68 Am. Jur. § 271; 79 C.J.S. Schools and School Districts, § 334.
2d Schools, §§ 109-127.
78 C.J.S. Schools and School Districts,

Sec. 14.50.010. Acceptance of federal funds. The legislature assents to federal aid under Public Law 85-864, 72 Stat. 1580, 85th Congress (20 U.S.C. 401-602) on behalf of the state. The commissioner of education may do all things necessary to cooperate with the United States government to participate under the Act and any Act amending or supplementing it, subject to prior concurrence of the governor. (§ 1 ch 27 SLA 1959)

Sec. 14.50.020. Definition of public schools for purposes of Statehood Act. Public schools, for the purpose of Public Law 85-508, 72 Stat. 339, 85th Congress, Second Session (Alaska Statehood Act), includes public elementary schools, public high schools, the University of Alaska and other public educational institutions which may be established. Nothing in this section includes schools for Alaska aborigines under the control of the federal government and which are administered and supervised through the Department of the Interior or the United States Department of Health, Education, and Welfare. (§ 1 ch 88 SLA 1959)

Sec. 14.50.030. Declaration of intent. If the United States Congress enacts legislation making federal money available to the states for teachers' salaries, school construction and other educational purposes it is the desire of the legislature that the governor or the state Board of Education as the federal law may require have sufficient flexibility in the use of money appropriated to the Department of Education to meet all reasonable federal requirements for obtaining the full amount of federal money which may be obtained by the state under such a federal aid program. (§ 1 ch 78 SLA 1961)

Sec. 14.50.040. Expenditure of state and federal funds for teachers' salaries. If the United States Congress enacts legislation, when the state legislature is not in session, making money available to the states for teachers' salaries, the governor or the board as the federal law may require may accept and use part or all of the federal money made available to the state to increase teachers' salaries according to a minimum salary schedule to be arrived at by the board. The governor or the board as federal law may require may use money appropriated by the legislature for teachers' salaries for matching purposes and may expend federal money so obtained for increased teachers' salaries in addition to state money already appropriated for that purpose. Any modified state minimum salary schedule arrived at as a result of receiving federal money may be put into effect by executive order signed by the governor or by order of the board, whichever appears to be the most nearly proper under federal law. This minimum salary schedule shall remain valid under the order until it is altered or approved in full by the legislature. The term "teacher" for the purposes of AS 14.50.030 — 14.50.080 includes teachers, school superintendents and other public school employees covered by the state minimum salary schedule who would be qualified to receive federal money through the state. (§ 2 ch 78 SLA 1961)

Sec. 14.50.050. Expenditure of state and federal money for school construction. If the United States Congress enacts into law legislation making money available to the state for school construction while the legislature is not in session, the governor or the board as the federal law may require may accept and use the federal money and apply it to the cost of constructing and improving school buildings and facilities to the extent that construction and improvement is authorized by the legislature when federal money becomes available. If a condition to receiving federal money for school construction is that the state increase its expenditures for that purpose over expenditures authorized by the legislature at the time federal money becomes available, the governor or the board as the federal law may require may use money appropriated by the legislature for school construction for matching purposes and may make further federal money available for school construction in addition to state money already appropriated for that purpose. To the extent practicable expenditure of state and federal money shall be limited to projects already programmed by the department and authorized by the legislature at the time federal money becomes available. (§ 3 ch 78 SLA 1961)

Sec. 14.50.060. Apportionment of federal aid granted without limitations as to use. If federal money is made available to the state without limitation or restriction as to the educational purposes for which it may be spent or if the federal money is made available to the state for alternative educational purposes, including payment of teachers' salaries, the governor or the board as the federal law may require may use a percentage of the money, not to exceed 50 per cent, for increasing teachers' salaries in conformity with a minimum state salary schedule to be adopted by the board. The governor or the board as the federal law may require may use the remainder of the money to supplement existing educational programs. (§ 4 ch 78 SLA 1961)

Sec. 14.50.070. Use of line item appropriations for matching purposes. The governor or the board as the federal law may require may direct the use of any state money appropriated in any line item for the department to match federal money which will be made available to the state for substantially the same purpose or program as the money appropriated by the line item at whatever matching ratio is established for the federal money. (§ 5 ch 78 SLA 1961)

Sec. 14.50.080. Consent to reasonable conditions. The governor or the board as the federal law may require may accept all reasonable conditions which may be required by the federal government as a condition to receiving federal money for education purposes. (§ 6 ch 78 SLA 1961)

Chapter 52. Food Service and Nutrition Education.

[Repealed, § 60 ch 6 SLA 1984.]

Chapter 55. Libraries and Museums.

[Repealed, § 59 ch 98 SLA 1966.]

Chapter 56. State Library and Historical Library and State Library Programs.

Article

1. State Library and Historical Library (§ 14.56.030)
2. State Library Distribution and Data Access Center (§§ 14.56.090 — 14.56.180)
3. Alaska Blue Book (§§ 14.56.182 — 14.56.190)
4. Rural Community Libraries (§§ 14.56.200 — 14.56.240)
5. Library Assistance Grants (§§ 14.56.300 — 14.56.340)
6. Public Library Construction Grants (§ 14.56.350)

Article 1. State Library and Historical Library.

Section	Section
10. Department of Education to govern library	30. State library duties
20. Powers of Department of Education	35. Accounting and disposition of fees
	80. Historical library duties

Collateral references. — 81A C.J.S. as infringement of copyright. 21 ALR Fed. States, § 147. 212.
Unauthorized photocopying by library

Sec. 14.56.010. Department of Education to govern library. The Department of Education shall manage and have complete charge of all of the property contained in the institutions known as the state library and state historical library. The state library and state historical library shall be maintained in the state capital. (§ 57 ch 98 SLA 1966; am § 1.ch 192 SLA 1968)

Sec. 14.56.020. Powers of Department of Education. The department shall

- (1) stimulate and encourage citizens' participation in the development and improvement of library facilities; and
- (2) establish policies, plans, and procedures of the department, and adopt reasonable regulations and orders, with penalties, as may be required. (§ 57 ch 98 SLA 1966)

Sec. 14.56.030. State library duties. The department shall undertake state library functions that will benefit the state and its citizens, including:

- (1) coordinating library services of the state with other educational services and agencies to increase effectiveness and eliminate duplication;
- (2) providing reference library service to state and other public officials;
- (3) providing library services and administering state and other grants-in-aid to public libraries to supplement and improve their services, the grants to be paid from funds appropriated for that purpose, or from other funds available for that purpose;
- (4) providing library service directly to areas in which there is not sufficient population or local revenue to support independent library units;
- (5) distributing financial aid to public libraries for extension of library service to surrounding areas and to improve inadequate local library service under regulations adopted by the department;
- (6) offering consultant service on library matters to state and mu-

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municipal libraries, community libraries, school libraries, and libraries in unincorporated communities;

(7) serving as a depository for state and federal publications concerning Alaska;

(8) applying for, receiving, and spending, in accordance with AS 37.07 (the Executive Budget Act), federal, state, or private funds available for library purposes;

(9) recording and distributing the election pamphlet provided for by AS 15.58 to libraries throughout the state for use by blind voters;

(10) establishing and charging fees for reproduction or printing costs and for mailing and distributing state publications and research data;

(11) operating and maintaining the Alaska State Archives under AS 40.21. (§ 57 ch 98 SLA 1966; am § 1 ch 10 SLA 1975; am § 25 ch 138 SLA 1986; am E.O. No. 70 § 2 (1988))

Effect of amendments. — The 1988 amendment, effective March 12, 1988, added paragraph (11).

Sec. 14.56.035. Accounting and disposition of fees. The commissioner of administration shall separately account for publication and distribution fees received under AS 14.56.030(10) and that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of AS 14.56.030. (§ 26 ch 138 SLA 1986)

Secs. 14.56.040 — 14.56.060. Applications, payments and limitations on grants-in-aid. [Repealed, § 2 ch 36 SLA 1981.]

Sec. 14.56.065. [Renumbered as AS 14.56.350.]

Sec. 14.56.070. State museum duties. [Repealed, § 3 ch 192 SLA 1968.]

Sec. 14.56.080. Historical library duties. The department shall
(1) collect, catalog, and preserve an Alaska collection consisting of books, laws, pamphlets, periodicals, manuscripts, microreproductions, audiovisual materials, etc.;

(2) serve as a depository for state and federal historical publications concerning Alaska;

(3) acquire, catalog, and maintain private papers and manuscripts relative to Alaska which are adjudged worthy of preservation for reference and research purposes;

(4) perform other functions necessary to the operation of a historical library. (§ 57 ch 98 SLA 1966; am § 2 ch 191 SLA 1970)

Article 2. State Library Distribution and Data Access Center.

Section	Section
90. State library distribution and data access center established	130. Other documents required of state agencies
100. Duties of center	135. Efficiency and computerization
110. Regulations	150. Depository library contracts
120. Deposit of publications and research data	160. Depository library designations
123. Liaison with center	170. Distribution of state publications and research data
125. Summaries and indices	180. Definitions

Cross references. — For findings and purpose of the 1979 amendatory Act, see § 1, ch. 27, SLA 1979, in the Temporary and Special Acts and Resolves.

Sec. 14.56.090. State library distribution and data access center established. There is established in the state library the state library distribution and data access center. (§ 1 ch 2 SLA 1970; am § 2 ch 27 SLA 1979)

Sec. 14.56.100. Duties of center. The center shall, in cooperation with federal, municipal, and private data collection and research efforts, promote the establishment of an orderly depository library and data index distribution and access system. (§ 1 ch 2 SLA 1970; am § 3 ch 27 SLA 1979)

Sec. 14.56.110. Regulations. The Department of Education shall adopt regulations necessary to carry out the provisions of AS 14.56.090 — 14.56.180. (§ 1 ch 2 SLA 1970)

Sec. 14.56.120. Deposit of publications and research data.
(a) Each state agency shall deposit, upon release, at least four copies of each of its state publications in the center. Additional copies of each publication may be requested by the center for deposit in quantities necessary to meet the needs of the depository library system and to provide inter-library service to those libraries not having depository status.

(b) Each state agency shall notify the center of the creation of all data published or compiled by or for it at public expense and provide for its accessibility through the center, unless the data is protected by the constitutional right to privacy or is of a type stated by law to be confidential or the agency is otherwise prohibited by law from doing so.

(c) The center is also a depository for publications of municipalities and regional educational attendance areas, including surveys and studies produced by a municipality or regional educational attendance

area or produced for it on contract. Four copies of each publication produced for a municipality or regional educational attendance area may be deposited with the center for record and distribution purposes.

(d) Each municipality or regional educational attendance area may notify the center of the creation of all data published or compiled by or for it at public expense and provide for its accessibility through the center, unless the data is protected by the constitutional right to privacy or is of a type stated by law to be confidential or the municipality or regional educational attendance area is otherwise prohibited by law from doing so.

(e) When a research project or study is conducted for a person by a state agency, a municipality, or a regional educational attendance area, even though no state funding is involved, the state agency, municipality or regional educational attendance area shall request that person for permission to make copies of its final report available to the center under AS 14.56.090 — 14.56.180. If permission is granted, the report shall be deposited with the center. (§ 1 ch 2 SLA 1970; am § 4 ch 27 SLA 1979)

Sec. 14.56.123. Liaison with center. Each state agency shall and each municipality and regional educational attendance area may designate one of its employees to be responsible for depositing the materials and information specified in AS 14.56.120. (§ 5 ch 27 SLA 1979)

Sec. 14.56.125. Summaries and indices. (a) Upon notification of the creation of data under AS 14.56.120, a state agency shall and a municipality or regional educational attendance area may prepare an abstract or summary of it.

(b) The center shall prepare and keep current an index of all publications and data abstracts or summaries on file and shall publish and distribute that index regularly to contracting depository libraries and to other Alaska libraries upon request. (§ 5 ch 27 SLA 1979)

Sec. 14.56.130. Other documents required of state agencies. Upon the request of the center, a state agency shall furnish the center with a complete list of its current state publications, data published or compiled by or for it at public expense, and a copy of its mailing or exchange lists. However, data which is protected by the constitutional right to privacy or is of a type stated by law to be confidential or which the agency is otherwise prohibited by law from distributing may not be furnished to the center. (§ 1 ch 2 SLA 1970; am § 6 ch 27 SLA 1979)

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Sec. 14.56.135. Efficiency and computerization. The center shall, to the extent practicable, avoid duplication, coordinate its activities with other state agencies charged with record-keeping functions, and employ computerization to compile or organize research data and other materials. (§ 7 ch 27 SLA 1979)

Sec. 14.56.140. List of publications. [Repealed, § 11 ch 27 SLA 1979.]

Sec. 14.56.150. Depository library contracts. The center may enter into depository contracts with municipal, regional educational attendance area, university or community college libraries, public library associations, state library agencies, the Library of Congress, and other state and federal library systems. The requirements for eligibility to contract as a depository library shall be established by the Department of Education upon the recommendation of the state librarian and shall include and take into consideration the type of library, its ability to preserve publications or data and to make them available for public use, and the geographical location of the library for ease of access to residents in all areas of the state. (§ 1 ch 2 SLA 1970; am § 8 ch 27 SLA 1979)

Sec. 14.56.160. Depository library designations. Libraries may be designated as either "complete depository" or "selective depository." A complete depository library shall be sent one copy of every state publication. A selective depository library shall be sent one copy of every publication from the specific state agencies it designates. (§ 1 ch 2 SLA 1970)

Sec. 14.56.170. Distribution of state publications and research data. The center may not engage in general public distribution of either (1) state publications or lists of publications or (2) the index of publications and research data. However, unless expressly prohibited by law, the center shall make available to any person, upon request and under procedures established by it, publications, summaries, research data, indices, and other materials in its possession. Reasonable fees for reproduction or printing costs and for mailing and distribution of materials may be charged by the center. (§ 1 ch 2 SLA 1970; am § 9 ch 27 SLA 1979)

Sec. 14.56.180. Definitions. In AS 14.56.090 — 14.56.180, unless the context otherwise requires,

(1) "center" means the state library distribution and data access center;

(2) "research data" or "data" means a representation of facts, concepts or instructions in a formalized manner suitable for communica-

tion, interpretation, or processing by humans or by automatic means which was prepared to serve as a basis for reasoning, calculation, discussion or decision and which is determined appropriate for indexing by the state librarian;

(3) "state agency" includes state departments, divisions, agencies, boards, associations, commissions, corporations and offices, and the University of Alaska and its affiliated research institutes;

(4) "state publication" includes any official document, compilation, journal, bill, law, resolution, bluebook, statute, code, register, pamphlet, list, book, report, study, hearing transcript, leaflet, order, regulation, directory, periodical or magazine issued or contracted for by a state agency determined by the state librarian to be appropriate for retention in the center. (§ 1 ch 2 SLA 1970; am § 10 ch 27 SLA 1979; am § 88 ch 74 SLA 1985)

Revisor's notes. — Reorganized in amendment repealed former paragraph 1987 to alphabetize the defined terms. (3), which defined "municipal" and "municipality."
Effect of amendments. — The 1985

Article 3. Alaska Blue Book.

Section	Section
182. Alaska Blue Book	185. Regulations
183. Furnishing information	190. Definitions
184. Distribution	

Sec. 14.56.182. Alaska Blue Book. The division of state libraries shall compile and issue biennially, beginning in 1973, an official directory of all state officers, state departments, agencies, institutions, boards and commissions and municipal officials, to be known as the Alaska Blue Book, and include in the book information regarding the functions of these officers and agencies that are considered most valuable to the people of the state, together with other data and information that is usually included in similar publications of other states. The book shall also include official reports of state agencies in the form prescribed by the division and a synopsis of all studies undertaken by each of the agencies listed. (§ 1 ch 135 SLA 1972)

Revisor's notes. — Formerly AS
14.56.250. Renumbered in 1982.

Sec. 14.56.183. Furnishing information. In order to carry out the purposes of AS 14.56.182 — 14.56.190, a state or municipal official shall furnish information for inclusion in the Alaska Blue Book concerning the state or municipal agency, including a concise report of activities, when requested to do so by the division. (§ 1 ch 135 SLA 1972)

§ 14.56.184 COMPILED SCHOOL LAWS OF ALASKA § 14.56.200

Revisor's notes. — Formerly AS
14.56.260. Renumbered in 1982.

Sec. 14.56.184. Distribution. (a) The division may distribute a limited number of copies of the Alaska Blue Book free of charge to libraries, schools, members of the legislature and to state and municipal officials in the state.

(b) The division shall determine a reasonable price, and charge that price for each copy of the Alaska Blue Book distributed, except for those distributed free of charge. The money collected shall be deposited in the general fund. (§ 1 ch 135 SLA 1972)

Revisor's notes. — Formerly AS
14.56.270. Renumbered in 1982.

Sec. 14.56.185. Regulations. The division shall adopt regulations necessary to carry out the purposes of AS 14.56.182 — 14.56.190. (§ 1 ch 135 SLA 1972)

Revisor's notes. -- Formerly AS
14.56.280. Renumbered in 1982.

Sec. 14.56.190. Definitions. In AS 14.56.182 — 14.56.190

(1) "division" means the division of state libraries;

(2) "municipal" includes cities and organized boroughs of every class;

(3) "state agency" includes state departments, divisions, agencies, boards, associations, corporations, authorities, commissions, universities, institutions and offices. (§ 1 ch 135 SLA 1972)

Revisor's notes. — Formerly AS
14.56.290. Renumbered in 1982.

Article 4. Rural Community Libraries.

Section	Section
200. Grants for constructing and equipping libraries	220. Ownership of facility
210. Application for grants	230. Regulations
	240. "Rural community" defined

Sec. 14.56.200. Grants for constructing and equipping libraries. The division of state libraries shall administer a program providing for grants to rural communities for constructing and equipping community libraries according to the provisions of AS 14.56.210 — 14.56.240. (§ 1 ch 42 SLA 1970)

§ 14.56.210 COMPILED SCHOOL LAWS OF ALASKA § 14.56.300

Sec. 14.56.210. Application for grants. (a) A rural community desiring to receive the benefits of the grants provided for in AS 14.56.200 shall apply to the division of state libraries. If the rural community is within a borough with areawide library powers, the borough may apply on behalf of the community.

(b) To be eligible for a grant under AS 14.56.200 — 14.56.240, the applicant shall provide not less than 10 per cent of the total cost of the project for which the funds are granted. The remaining percentage shall be provided by the state. The matching share of the applicant may be in the form of money, land, services, or other items acceptable to the division of state libraries. Satisfactory assurance of the continuation of library services shall be included as part of the application. (§ 1 ch 42 SLA 1970)

Sec. 14.56.220. Ownership of facility. Title to a library constructed under AS 14.56.200 — 14.56.240 shall be in the applicant unless the applicant is an unincorporated city, in which case the state shall retain title until the time of any subsequent incorporation. (§ 1 ch 42 SLA 1970)

Sec. 14.56.230. Regulations. The division of state libraries shall adopt regulations necessary to carry out the purposes of AS 14.56.200 — 14.56.240. (§ 1 ch 42 SLA 1970)

Sec. 14.56.240. "Rural community" defined. In AS 14.56.200 — 14.56.230, "rural community" means any community except a first class city of over 2,000 population. (§ 1 ch 42 SLA 1970; am § 27 ch. 53 SLA 1973)

Secs. 14.56.250 — 14.56.290. [Renumbered as AS 14.56.182 — 14.56.190.]

Article 5. Library Assistance Grants.

Section	Section
300. Library assistance grant fund	330. Limitations
310. Eligibility	340. Regulations
320. Applications	

Sec. 14.56.300. Library assistance grant fund. There is established in the department a library assistance grant fund. From legislative appropriations to the fund, the department shall make grants to eligible libraries for public library operations or for interlibrary cooperation or for both. (§ 1 ch 36 SLA 1981)

Sec. 14.56.310. Eligibility. (a) Libraries eligible for grants under AS 14.56.300 are:

(1) public libraries operated by municipalities or by public library nonprofit corporations; and

(2) libraries sharing resources or providing services to other libraries.

(b) A library described in (a) (1) of this section is eligible for a public library assistance grant. A library described in either (a) (1) or (2) of this section is eligible for an interlibrary cooperation assistance grant. (§ 1 ch 36 SLA 1981)

Sec. 14.56.320. Applications. An eligible library may apply to the department for a grant under AS 14.56.300 — 14.56.340 in accordance with regulations adopted by the board. (§ 1 ch 36 SLA 1981)

Sec. 14.56.330. Limitations. (a) A public library assistance grant under AS 14.56.300 — 14.56.340 may not exceed \$10,000 for each local public library service outlet in any one fiscal year. However, no amount over \$5,000 may be granted unless it is equally matched by local money.

(b) State money granted to a library under AS 14.56.300 — 14.56.340 may not be used to supplant local money equal to local expenditures for that library in fiscal year 1980, as adjusted annually by the commissioner to conform approximately to changes in the United States Department of Labor Bureau of Labor Statistics consumer price index for Anchorage, Alaska. A library that uses state money to supplant local money forfeits eligibility for grants under AS 14.56.300 — 14.56.340 for two years. (§ 1 ch 36 SLA 1981)

Sec. 14.56.340. Regulations. The board shall adopt regulations necessary to carry out the purposes of AS 14.56.300 — 14.56.330. (§ 1 ch 36 SLA 1981)

Editor's notes. — Section 3, ch. 36, repealed by that Act (AS 14.56.040 — SLA 1981, provides that regulations 14.56.060) remain in effect until amended adopted under prior similar provisions re- or repealed by the board.

Article 6. Public Library Construction Grants.

Section

350. Public library construction grants

Sec. 14.56.350. Public library construction grants. (a) The director of the division of state libraries shall administer a program providing for grants to municipalities in the state for the construction and equipping of libraries. To be eligible for a grant under this section a municipality shall provide not less than 40 per cent of the total cost

of the project for which funds are granted. The department shall administer the funds under this section and shall adopt regulations necessary to carry out the purposes of this section.

(b) *[Repealed, § 88 ch 74 SLA 1985.]* (§ 1 ch 100 SLA 1970; am § 88 ch 74 SLA 1985)

Revisor's notes. — Formerly AS amendment repealed subsection (b), 14.56.065. Renumbered in 1982. which defined "municipality."

Effect of amendments. — The 1985

Chapter 57. The State Museum.

Section	Section
10. The state museum	40. Compensation; per diem, travel expenses
15. Accounting and disposition of receipts	50. Collections management; acquisitions and dispositions
20. Museum Collections Advisory Committee	60. Advisory duties
30. Officers; meetings, rules of procedure, quorum	70. Conflict of interest
	80. Definitions

Collateral references. — 81A C.J.S. States, § 147.

Sec. 14.57.010. The state museum. (a) The department shall manage and have complete charge of all of the property contained in the institution known as the state museum. The museum shall be maintained in the state capital. Branch museums may be established and maintained in other localities in the state.

(b) The department shall

(1) acquire artifacts, natural history specimens, art objects, etc., that pertain to the human and natural history of Alaska by purchase and by gift;

(2) identify, catalog, preserve, and display these acquisitions;

(3) acquire and catalog Alaskan photographs and maintain a card catalog of this collection;

(4) accept endowments, grants, and gifts in accordance with AS 37.07 (the Executive Budget Act);

(5) collect and maintain books, periodicals, pamphlets, and other materials pertinent to museum administration, techniques and collections;

(6) assist and advise in the development of local museums;

(7) collect and keep current information concerning museum activities throughout the state;

(8) coordinate the museum activities of the state with those of other agencies;

(9) keep the museum open at reasonable hours for the convenience of visitors;

(10) provide museum services and administer state and other grants-in-aid to museums in the state to supplement and improve their services, the grants to be paid from money appropriated for that purpose, or from other money available for that purpose. (E.O. No. 34 (1974); am § 27 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (b), substituted "established state policy" in paragraph (4) and substituted "money" for "funds" in "AS 37.07 (the Executive Budget Act)" for two places in paragraph (10).

Sec. 14.57.015. Accounting and disposition of receipts. The commissioner of administration shall separately account for each endowment or grant from a private donor received under AS 14.57.010(b)(4) and deposited by the department in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of AS 14.57.010. (§ 28 ch 138 SLA 1986)

Sec. 14.57.020. Museum Collections Advisory Committee. (a) There is created in the department the State Museum Collections Advisory Committee consisting of five members appointed by the board to serve at the board's pleasure for staggered three-year terms. The appointees shall be broadly representative of the public's interest in the preservation of the human, cultural, natural, archeological, and anthropological history of Alaska. When possible, some of the committee members shall be known for, or possess, special expertise or a culturally relevant background in these aspects of the art and history of the state.

(b) A member appointed to fill a vacancy serves for the unexpired term of the member succeeded. (§ 1 ch 80 SLA 1974; am § 61 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment deleted the former second sentence in subsection (b), which read "Of the initial appointees of the board, one shall serve for one year, two for two years, and two for three years."

Sec. 14.57.030. Officers; meetings, rules of procedure, quorum. (a) The committee shall elect a chairman from among its members.

(b) The committee shall meet at least once every six months and at the call of its chairman, on petition of a majority of its members, or at the call of the commissioner, or the director of the museum, at a mutually convenient time and place both for the members of the committee and for interested members of the public.

(c) The committee shall adopt rules of procedure to govern its meetings. A majority of the members of the committee constitutes a quorum. (§ 1 ch 80 SLA 1974)

Sec. 14.57.040. Compensation; per diem, travel expenses. The members of the committee serve without compensation, but they are entitled to per diem and travel expenses as authorized by law for boards and commissions. (§ 1 ch 80 SLA 1974)

Sec. 14.57.050. Collections management; acquisitions and dispositions. (a) On recommendation of the committee, the department shall adopt regulations governing the museum's in-house acquisitions committee, and the management and disposition of artifacts, natural history specimens, art objects, collections or other items, materials or properties that are owned by, in the custody of, or are proposed for acquisition by, the state museum.

(b) Artifacts, natural history specimens, art objects, collections or other items, materials or properties that relate to the history of Alaska and are appropriate for preservation in the state museum of a value of \$1,000 or more may not be acquired by purchase, gift or exchange, or otherwise, nor may any item owned by, or in the custody of, the state museum be disposed of by sale, gift, exchange, or otherwise, without the written approval of the committee.

(c) The committee may obtain an independent, professional appraisal of the value of each item to be acquired or disposed of by or for the state museum. (§ 1 ch 80 SLA 1974)

Sec. 14.57.060. Advisory duties. The committee shall act in an advisory capacity to the board as to the general policies and programs of the state museum. (§ 1 ch 80 SLA 1974)

Sec. 14.57.070. Conflict of interest. (a) A member of the committee may not act on a matter relating to the state museum in which the member's relationship with another person or with respect to the acquisition or disposition of an item owned by, in custody of, or proposed to be acquired by or for the state museum creates a conflict of interest. A committee member may not

(1) have a pecuniary or property interest in an item that is proposed to be acquired or disposed of by or for the state museum;

(2) have a pecuniary or property interest, directly or indirectly, in a contract to which the museum, or the state on behalf of the museum, is a party; or

(3) receive compensation for services rendered to the state museum

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as a consultant, expert, appraiser, or otherwise, except as provided in AS 14.57.040.

(b) Notwithstanding (a) of this section, a committee member may bequeath or donate an item to the state museum. (§ 1 ch 80 SLA 1974)

Sec. 14.57.080. Definitions. In this chapter "committee" means the state Museum Collections Advisory Committee. (§ 1 ch 80 SLA 1974)

Chapter 58. Alaska Public Broadcasting Commission.

[Renumbered as AS 44.21.256 — 44.21.290.]

Chapter 60. General Provisions.

Section

10. Definitions

Sec. 14.60.010. Definitions. In this title, unless the context otherwise requires

(1) "attendance area" means the geographic area designated by the department to be served by a school;

(2) "board" means the state Board of Education;

(3) "commissioner" means the commissioner of education;

(4) "department" means the Department of Education;

(5) "governing body" means the school board of a borough or city school district or a regional educational attendance area;

(6) "public schools" include elementary schools, high schools, citizenship night schools for adults, and other public educational institutions which may be established; however, nothing in this title includes schools for Alaska Natives under the control of the federal government and administered and supervised through the Bureau of Indian Affairs;

(7) "regional educational attendance area" means an educational service area in the unorganized borough which may or may not include a military reservation, and which contains one or more public schools of grade levels K-12 or any portion of those grade levels which are to be operated under the management and control of a single regional school board;

(8) "school board" means the school board of a borough or city school district or a regional educational attendance area. (§ 37-1-3

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ACLA 1949; am § 58 ch 98 SLA 1966; am §§ 27 — 29 ch 46 SLA 1970;
am § 3 ch 64 SLA 1972; am §§ 29 — 32 ch 124 SLA 1975)

Revisor's notes. — Reorganized in
1987 to alphabetize the defined terms.

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Title 4. Alcoholic Beverages.

Chapter 16. Regulation of Sales and Distribution.

Sec. 04.16.080. Sales or consumption at school events. A person may not sell or consume alcoholic beverages during a school event at the site of the event. (§ 3 ch 131 SLA 1980)

Title 9. Code of Civil Procedure.

Chapter 25. Public Records Act

Sec. 09.25.120. Inspection and copying of public records. Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees. (§ 3.23 ch 101 SLA 1962)

NOTES TO DECISIONS

For discussion of the history of this section, see *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Broad policy. — AS 09.25.110 and this section articulate a broad policy of open records. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Effect of "in the state" language. — When the legislature chose to say "in the state," and not "of the state" in the first sentence of this section, they were conscious of the fact that they were defining scope and had it been intended to limit the application of this section to state agencies and departments, it could easily and clearly have done so. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The word "public" as used in AS 09.25.110 and this section with "officer" refers both to state and local officials. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Application to municipalities. — The provisions of AS 09.25.110 and this section are applicable to municipalities. *City of Kenai v. Kenai Peninsula Newspapers,*

Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

In light of the common law rule, legislative history, and the court's reading of the sections, the state supreme court will construe AS 09.25.110 and this section as that court would have construed them prior to 1967, which is as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Disclosure of applications for public posts. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

University of Alaska. — The legislature intended to include the University of Alaska within the scope of state agencies subject to the public records statute. *Carter v. Alaska Pub. Employees Ass'n*, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

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Letters sent by citizens to governor regarding appointments are public records within the scope of the public records statute, AS 09.25.110 —

09.25.120. John Doe v. Alaska Superior Court, Sup. Ct. Op. No. 3073 (File No. S-859), 721 P.2d 617 (1986).

Collateral references. — 66 Am.Jur.2d, Records and Recording Laws, §§ 12-31.

76 C.J.S., Records, §§ 34-41.

rights of public welfare, 54 ALR3d 768.

Validity, construction, and application of statutory provisions relating to public access to police records, 82 ALR3d 19.

Restricting access to judicial records of state courts, 84 ALR3d 598.

Validity, construction, and application of statutes making public proceedings open to the public, 38 ALR3d 1070.

Confidentiality of records as to recip-

Payroll records of individual government employees as subject to disclosure to public, 100 ALR3d 699.

Sec. 09.25.121. Copies of public records for veterans. When a copy of a public record is required by the Department of Military and Veterans' Affairs, the Department of Commerce and Economic Development, or by the United States Veterans' Administration to be used in determining the eligibility of a person to participate in benefits, the official custodian of the public record shall, without charge, provide the applicant for the benefits, a person acting on behalf of the applicant, or an authorized representative of the department or the United States Veterans' Administration with a certified copy of the record. (§ 1 ch 35 SLA 1981; am § 2 ch 21 SLA 1985)

Effect of amendments. — The 1985 amendment substituted "Department of Military and Veterans' Affairs" for "division of veterans' affairs" in the first instance in which it appeared and substi-

tuted "department" in the second instance, inserted "the" preceding "Department of Commerce," and made a minor punctuation change.

Sec. 09.25.125. Enforcement: Injunctive relief. A person having custody or control of a public record who obstructs or attempts to obstruct, or a person not having custody or control who aids or abets another person in obstructing or attempting to obstruct, the inspection of a public record subject to inspection under AS 09.25.110 or 09.25.120 may be enjoined by the superior court from obstructing, or attempting to obstruct, the inspection of public records subject to inspection under AS 09.25.110 or 09.25.120. (§ 1 ch 74 SLA 1975)

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Sec. 09.25.130. Effect of private seals and scrolls. Private seals and scrolls as a substitute for seals are abolished. They are not required to an instrument, but when used their effect remains unchanged. (§ 3.10 ch 101 SLA 1962)

Sec. 09.25.140. Confidentiality of library records. (a) Except as provided in (b) of this section, the names, addresses, or other personal identifying information of people who have used materials made available to the public by a library shall be kept confidential, except upon court order, and are not subject to inspection under AS 09.25.110 or 09.25.120. This section applies to libraries operated by the state, a municipality, or a public school, including the University of Alaska.

(b) Records of a public elementary or secondary school library identifying a minor child shall be made available on request to a parent or guardian of that child. (§ 1 ch 35 SLA 1985)

Sec. 09.25.150. Claiming of privilege by public official or reporter. Except as provided in AS 09.25.150 — 09.25.220, no public official or reporter may be compelled to disclose the source of information procured or obtained while acting in the course of duties as a public official or reporter. (§ 1 ch 115 SLA 1967)

Cross references. — For court rule recognizing statutory privileges, see Evid. R. 501.

Collateral references. — 81 Am.Jur.2d, Witnesses, §§ 141-147, 287-302.

98 C.J.S., Witnesses, §§ 432-440, 460-467.

Right of one against whom testimony is offered to invoke privilege of communications. — Communications to or information acquired by such a person, 7 ALR3d 591.

Propriety and prejudicial effect of comment or instruction by court with respect to party's refusal to permit introduction of privileged testimony. 34 ALR3d 775.

Communications to social worker as privileged. 50 ALR3d 563.

Privilege of newsgatherer against disclosure of confidential sources or information. 99 ALR3d 37.

Admission between others. 2 ALR2d 645. Admissibility of recordings in evidence as affected by privileged nature of communications, 58 ALR2d 1037.

Construction of statute creating privilege against disclosure of communications made to stenographer or confidential clerk. 96 ALR2d 159.

Privilege of newspaper or magazine and persons connected therewith not to disclose.

Testimony before or communications to private professional society's judicial commission, ethics committee, or the like, as privileged. 9 ALR4th 807.

Construction and application, under state law, of doctrine of "executive privilege." 10 ALR4th 355.

Reports of pleadings as being within privilege for reports of judicial proceedings, libel and slander. 20 ALR4th 576.

Sec. 09.25.160. Challenge of privilege. (a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question the public official or reporter in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made *instanter* by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may order a special hearing for the determination of the issue of privilege.

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(b) The court may deny the privilege and may order the public official or the reporter to testify, imposing whatever limits upon the testimony and upon the right of cross-examination of the witness as may be in the public interest or in the interest of a fair trial, if it finds the withholding of the testimony would

- (1) result in a miscarriage of justice or the denial of a fair trial to those who challenge the privilege; or
- (2) be contrary to the public interest. (§ 1 ch 115 SLA 1967)

NOTES TO DECISIONS

Cited in *Allred v. State*, Sup. Ct. Op. No. 1304 (File No. 2343), 554 P.2d 411 (1976).

Collateral references. — Court's power to determine, upon government's claim of privilege whether official information contains state secrets or other matters disclosure of which is against public interest, 32 ALR2d 391.

Sec. 09.25.170. Order divesting public official or reporter of the privilege. (a) This section is applicable to a hearing held under the laws of this state

- (1) before a court other than the supreme or a superior court;
- (2) before a court commissioner, referee, or other court appointee;
- (3) in the course of legislative proceedings or before a commission, agency or committee created by the legislature;
- (4) before an agency or representative of an agency of the state, borough, city or other municipal corporation, or other body; or
- (5) before any other forum of this state.

(b) If, in a hearing, a public official or a reporter should refuse to divulge the source of information, the agency body, person, official, or party seeking the information may apply to the superior court for an order divesting the official or reporter of the privilege. When the issue is raised before the supreme or a superior court, the application must be made to that court.

(c) Application for an order shall be made by verified petition setting out the reasons why the disclosure is essential to the administration of justice, a fair trial in the instant proceeding, or the protection of the public interest. Upon application, the court shall determine the notice to be given to the public official or reporter and fix the time and place of hearing. The court shall make or cause to be made whatever inquiry the court thinks necessary, and make a determination of the issue as provided for in AS 09.25.160. (§ 1 ch 115 SLA 1967)

Sec. 09.25.180. Order subject to review. An order of the superior court entered under AS 09.25.150 — 09.25.220 shall be subject to review by the supreme court, by appeal or by certiorari, as the rules of that court may provide. During the pendency of the appeal, the privilege shall remain in full force and effect. (§ 1 ch 115 SLA 1967)

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Sec. 09.25.190. Extent of privilege. When a public official or reporter claims the privilege conferred by AS 09.25.150 — 09.25.220 and the public official or reporter has not been divested of the privilege by order of the supreme or superior court, neither the public official or reporter nor the news organization with which the reporter was associated may thereafter be permitted to plead or prove the sources of information withheld, unless the informant consents in writing or in open court. (§ 1 ch 115 SLA 1967)

Sec. 09.25.200. Application of privilege in other courts. AS 09.25.150 — 09.25.220 also apply to proceedings held under the laws of the United States or any other state where the law of this state is being applied. (§ 1 ch 115 SLA 1967)

Sec. 09.25.210. AS 09.25.150 — 09.25.220 do not abridge other privileges. AS 09.25.150 — 09.25.220 may not be construed to abridge any of the privileges recognized under the laws of this state, whether at common law or by statute. (§ 1 ch 115 SLA 1967)

Sec. 09.25.220. Definitions. In AS 09.25.150 — 09.25.220, unless the context otherwise requires,

(1) "news organization" means

(A) an individual, partnership, corporation or other association regularly engaged in the business of

(i) publishing a newspaper or other periodical that reports news events, is issued at regular intervals and has a general circulation;

(ii) providing newsreels or other motion picture news for public showing; or

(iii) broadcasting news to the public by wire, radio, television or facsimile;

(B) a press association or other association of individuals, partnerships, corporations, or other associations described in (A)(i), (ii), or (iii) of this paragraph engaged in gathering news and disseminating it to its members for publication.

(2) "privilege" means the conditional privilege granted to public officials and reporters to refuse to testify as to a source of information;

(3) "public official" means a person elected to a public office created by the Constitution or laws of this state, whether executive, legislative or judicial, and who was holding that office at the time of the communication for which privilege is claimed;

(4) "reporter" means a person regularly engaged in the business of collecting or writing news for publication, or presentation to the public, through a news organization; it includes persons who were reporters at the time of the communication, though not at the time of the claim of privilege. (§ 1 ch 115 SLA 1967; am § 14 ch 59 SLA 1982)

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Sec. 09.65.090. Civil liability for emergency aid. (a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

(b) A member of an organization that exists for the purpose of providing emergency services is not liable for civil damages for injury to a person that results from an act or omission in providing first aid, search, rescue, or other emergency services to the person, regardless of whether the member is under a preexisting duty to render assistance, if the member provided the service while acting as a volunteer member of the organization; in this paragraph, "volunteer" means a person who is paid not more than \$10 a day and a total of not more than \$500 a year, not including ski lift tickets and reimbursement for expenses actually incurred, for providing emergency services.

(c) The immunity provided under (b) of this section does not apply to civil damages that result from providing or attempting to provide any of the following advanced life support techniques unless the person who provided them was authorized by law to provide them:

- (1) electric cardiac defibrillation;
- (2) administration of antiarrhythmic agents;
- (3) intravenous therapy;
- (4) intramuscular therapy; or
- (5) use of endotracheal intubation devices.

(d) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct. (§ 1 ch 32 SLA 1967; am § 1 ch 119 SLA 1971; am § 38 ch 102 SLA 1976; am § 1 ch 90 SLA 1988)

Title 11. Criminal Law.

Chapter 56. Offenses Against Public Administration.

Article 1. Bribery and Related Offenses.

Section

100. Bribery
110. Receiving a bribe

Section

120. Receiving unlawful gratuities
130. Definition

Collateral references. — 12 Am. Jur. 2d, Bribery, §§ 6-14.

11 C.J.S., Bribery, § 1 et seq.

Charge of bribery or cognate offense predicated upon an unaccepted offer by or to an official, 52 ALR 816.

Bribe giver as accomplice of bribe taker and vice versa within rule requiring corroboration of testimony of accomplice, 73 ALR 389.

Liability of one collaborating in bribery

which he was incapable of committing personally, 74 ALR 1114; 131 ALR 1322.

Lack of legal qualification of person assuming or alleged to be an officer, criminal offenses of bribery as affected by, 115 ALR 1263.

Nonexistence of duty upon part of official to do, or refrain from doing, the act in respect of which it was sought to influence him, bribery as affected by, 158 ALR 323.

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Athletic contests, bribery in, 49 ALR2d 1234.

Solicitation or receipt of funds by public officer or employee for political campaign expenses or similar purposes as bribery, 55 ALR2d 1137.

Entrapment to commit bribery or offer to bribe, 69 ALR2d 1397.

Validity and construction of statutes punishing commercial bribery, 1 ALR3d 1350.

Criminal liability of corporation for bribery or conspiracy to bribe public official, 52 ALR3d 1274.

Furnishing public official with meals,

lodging, or travel, or receipt of such benefits, as bribery, 67 ALR3d 1231.

Criminal offense of bribery as affected by lack of authority of state public officer or employee, 73 ALR3d 374.

Validity of state statute prohibiting award of government contract to person or business entity previously convicted of bribery or attempting to bribe state public employee, 7 ALR4th 1202.

Consummation of offense under 18 USCS § 201(b) of giving, offering, or promising bribe to public official, as affected by fact that latter is not corrupted or refuses to accept bribe, or object of bribe was not attained, 20 ALR Fed. 950.

Sec. 11.56.100. Bribery. (a) A person commits the crime of bribery if the person confers, offers to confer, or agrees to confer a benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision, or exercise of official discretion.

(b) In a prosecution under this section, it is not a defense that the person sought to be influenced was not qualified to act in the desired way, whether because that person had not assumed office, lacked jurisdiction, or for any other reason.

(c) Bribery is a class B felony. (§ 6 ch 166 SLA 1978)

Sec. 11.56.110. Receiving a bribe. (a) A public servant commits the crime of receiving a bribe if the public servant

(1) solicits a benefit with the intent that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced; or

(2) accepts or agrees to accept a benefit upon an agreement or understanding that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced.

(b) Receiving a bribe is a class B felony. (§ 6 ch 166 SLA 1978)

Sec. 11.56.120. Receiving unlawful gratuities. (a) A public servant commits the crime of receiving unlawful gratuities if, for having engaged in an official act which was required or authorized and for which the public servant was not entitled to any special or additional compensation, the public servant

(1) solicits a benefit, regardless of value; or

(2) accepts or agrees to accept a benefit having a value of \$50 or more.

(b) Receiving unlawful gratuities is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Sec. 11.56.130. Definition. In AS 11.56.100 — 11.56.130, "benefit" has the meaning ascribed to it in AS 11.81.900 but does not include

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- (1) political campaign contributions reported in accordance with AS 15.13;
- (2) concurrence in official action in the cause of legitimate compromise between public servants; or
- (3) support, including a vote, solicited by a public servant or offered by any person in an election. (§ 6 ch 166 SLA 1978)

Cross references. — For definition of terms used in this title, see AS 11.81.900.

Title 18. Health and Safety.

Chapter 15. Disease Control.

Article 1. Tuberculosis.

Sec. 18.15.145. Screening of school employees. (a) An employee of a public or private elementary or secondary school in the state shall be tested annually to detect active cases of pulmonary tuberculosis. An employee who has never had a positive test result from a tuberculin skin test shall obtain a tuberculin skin test. An employee whose skin test result is positive or who has ever had a positive skin test result shall obtain a chest X-ray.

(b) An employee who refuses or fails to be tested as required under (a) of this section is suspended from employment until the employee has been tested.

(c) The school district annually shall obtain from each school employee in the district a certificate or other evidence that the employee has been tested as required in (a) of this section.

(d) The department may by regulation provide for reasonable exceptions to the requirements of this section. (§ 2 ch 32 SLA 1984)

Chapter 31. Asbestos.

Article

- 1. Asbestos Health Hazard Abatement Program (§§ 18.31.010 — 18.31.060)
- 2. Certification of Asbestos Workers (§ 18.31.200)
- 3. Miscellaneous Provisions (§ 18.31.500)

Editor's notes. — Section 3, ch. 71, SLA 1985 provides that this chapter "does not apply to work involving asbestos or the abatement of asbestos health hazards underway on October 1, 1985."

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Article 1. Asbestos Health Hazard Abatement Program.

Section

- 10. Program established
- 20. Duties of the Department of Labor
- 30. Duties of the Department of Education

Section

- 40. Duties of school officials
- 50. Repayment of grant funds

Sec. 18.31.010. Program established. The asbestos health hazard abatement program is established in the Department of Labor to coordinate efforts of state departments and agencies to abate asbestos health hazards in schools in the state. The program applies to all work in public schools and the University of Alaska involving

(1) demolition, removal, encapsulation, salvage, repair, transportation, disposal, storage, and containment of asbestos products;

(2) construction, alteration, repair, maintenance, or renovation that will cause asbestos fibers to become airborne. (§ 2 ch 71 SLA 1985)

Revisor's notes. — Enacted as AS
18.28.010. Renumbered in 1985.

Sec. 18.31.020. Duties of the Department of Labor. In order to abate asbestos health hazards from public schools and from the University of Alaska the Department of Labor shall

(1) in a school district or regional educational attendance area that has not complied with Environmental Protection Agency asbestos regulations (40 C.F.R. Part 763), inspect school buildings to determine the presence of asbestos, take samples as needed, answer inquiries on the subject, ensure quality control of asbestos sampling, or enter into contracts for these purposes;

(2) distribute, retrieve, and store training materials concerning inspection and sampling for asbestos;

(3) establish guidelines, in conformity with Environmental Protection Agency asbestos regulations (40 C.F.R. Part 763), for abating asbestos health hazards, for inspecting and collecting samples of suspected asbestos, and for analyzing the samples;

(4) evaluate analysis results and distribute the results to affected schools;

(5) coordinate efforts by state departments and agencies and by school officials to identify and abate asbestos health hazards;

(6) cooperate with the Department of Education to administer state money appropriated for the asbestos health hazard abatement program;

(7) establish classifications of asbestos health hazards according to the severity of the hazard and determine on the basis of those classifications the order in which abatement projects should proceed;

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(8) review and approve all asbestos health hazard abatement projects relating to respirator use and employee training, including training materials;

(9) oversee an employee certification program;

(10) establish guidelines and procedures to prevent damage to asbestos products in daily operations;

(11) whenever the department is informed of scheduled work to abate an asbestos health hazard, inform the contractors and other concerned persons of the health hazards of asbestos;

(12) assist the University of Alaska in its efforts to abate asbestos health hazards; and

(13) adopt regulations necessary to implement the provisions of this chapter. (§ 2 ch 71 SLA 1985)

Revisor's notes. — Enacted as AS
18.28.020. Renumbered in 1985.

Sec. 18.31.030. Duties of the Department of Education. To assist in implementing the asbestos health hazard abatement program, the Department of Education shall

(1) cooperate with the Department of Labor, school districts, and regional educational attendance areas to ensure inspection of public schools for asbestos health hazards and to ensure that identified asbestos health hazards are abated;

(2) maintain records, files, and reports on asbestos health hazards in public schools;

(3) administer state money appropriated to finance renovation contracts under AS 18.31.040(5);

(4) in accordance with priorities established by the Department of Labor under AS 18.31.020(7), distribute grants to school districts and regional educational attendance areas for the abatement of health hazards in public schools; and

(5) inform the Department of Labor when renovation contracts are awarded under AS 18.31.040(5), to enable the Department of Labor to advise contractors and other concerned persons of the health hazards of asbestos that may be encountered in the renovation project. (§ 2 ch 71 SLA 1985)

Revisor's notes. — Enacted as AS
18.28.030. Renumbered in 1985.

Sec. 18.31.040. Duties of school officials. To assist in implementing the asbestos health hazard abatement program, each city or borough school district and each regional educational attendance area shall

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- (1) maintain records of all inspections, including sample dates, location, condition, and analysis of materials;
- (2) notify school personnel of the location of asbestos materials and ways to reduce exposure;
- (3) notify the parents of students about the results of asbestos inspections in their children's schools;
- (4) either
 - (A) contract for the inspection of its school buildings in compliance with Environmental Protection Agency asbestos regulations (40 C.F.R. Part 763) and in accordance with guidelines established by the Department of Labor and under the supervision of the Department of Labor; or
 - (B) notify the Department of Labor that the school district or regional educational attendance area has not entered and does not intend to enter into a contract for an inspection for asbestos health hazards; and
- (5) contract for renovating school buildings to abate asbestos health hazards, and supervise and monitor the renovation contracts, applying the standards in AS 18.60.075 to protect the health of persons who renovate the school buildings. (§ 2 ch 71 SLA 1985)

Revisor's notes. — Enacted as AS
18.28.040. Renumbered in 1985.

Sec. 18.31.050. Repayment of grant funds. A school district or regional educational attendance area that receives a state grant for the abatement of asbestos health hazards in schools shall repay the grant from any money the district or the regional educational attendance area recovers from asbestos manufacturers or other parties in a claim for damages arising from the use of asbestos in a school. Repayment shall be made after deducting legal fees and other costs associated with the claim for damages. (§ 2 ch 71 SLA 1985)

Revisor's notes. — Enacted as AS
18.28.050. Renumbered in 1985.

Article 2. Certification of Asbestos Workers.

Section
200. Certification programs

Sec. 18.31.200. Certification programs. (a) The Department of Labor shall

- (1) establish guidelines for employee training certification programs, including respiratory and competency tests to be completed

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successfully, to ensure that a person who is employed to abate asbestos health hazards is trained to do the work safely and is informed about the danger of working with asbestos;

(2) review certification programs proposed by contractors, labor organizations, public and private vocational training programs, and others for persons who will be employed to abate asbestos health hazards;

(3) approve proposed certification programs that meet the department's guidelines under this subsection;

(4) assist in meeting the certification guidelines those whose certification program proposals have been found unacceptable.

(b) Before a contractor may undertake work to abate an asbestos related health hazard, the contractor shall

(1) propose to the Department of Labor a plan for the certification of its employees as adequately trained to handle asbestos in a safe and knowledgeable way;

(2) receive approval from the department of that plan; and

(3) certify that each person who will work on the abatement of an asbestos health hazard is adequately trained to handle asbestos in a safe and knowledgeable way.

(c) A person may not be employed to abate an asbestos health hazard unless the person has been certified in a program approved by the Department of Labor under (a) of this section.

(d) A contractor who violates (b) or (c) of this section is subject to a civil penalty not to exceed \$1,000, as determined by the commissioner of labor.

(e) A contractor who violates (b) of this section is guilty of a class A misdemeanor.

(f) A contractor who violates (c) of this section is guilty of a class B misdemeanor. (§ 2 ch 71 SLA 1985)

Revisor's notes. — Enacted as AS
18.28.200. Renumbered in 1985.

Article 3. Miscellaneous Provisions.

Section 500. Definitions

Sec. 18.31.500. Definitions. In this chapter

(1) "asbestos" means chrysotile, amosite, crocidolite, fibrous tremolite, fibrous anthophyllite, and fibrous actinolite;

(2) "asbestos health hazard" means the presence of material containing asbestos that carries a risk of releasing asbestos fibers into the

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atmosphere;

(3) "asbestos product" means a product that produces airborne asbestos. (§ 2 ch 71 SLA 1985)

Revisor's notes. — Enacted as AS 18.28.500. Renumbered in 1985.

Chapter 35. Public Accommodations and Facilities.

Article 4. Health Nuisances.

Cross references. — For legislative findings in connection with ch. 34, SLA 1984, see § 1, ch. 34, SLA 1984 in the Temporary and Special Acts.

Opinions of attorney general. — In light of the repeal of former AS 18.35.360, which granted the Department of Environmental Conservation's authority to write regulations in implementation of this article, the department may promulgate legislative-type regulations which are truly necessary to implementation of

the article; (2) the department may not promulgate other legislative-type regulations, such as those which are helpful but not strictly necessary to the statutory scheme; and (3) the department may issue interpretive regulations which offer suggested guidelines on implementing the article. June 22, 1984, Op. Att'y Gen.

Collateral references. — 39 Am. Jur. 2d, Health, §§ 24, 25, 41-44.

39A C.J.S., Health and Environment, §§ 26, 27.

Sec. 18.35.300. Smoking in certain vehicles and indoor places prohibited. Smoking in any form is a nuisance and a public health hazard and is prohibited in the following vehicles and indoor places, except as otherwise provided by this chapter:

(1) a vehicle of public transportation and a waiting or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled intrastate aircraft flight when consistent with federal law;

(3) a place of employment, a building or other structure, or a portion of them, owned, leased, or operated by the state or a political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation;

(4) a public or private school, pre-school, or day care facility;

(6) a room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress; (§ 1 ch 125 SLA 1975; am § 2 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

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Sec. 18.35.310. Exemptions. The prohibition set out in AS 18.35.300 does not apply to

(1) a portion of a place or vehicle that is designated as a smoking section under AS 18.35.320;

(2) a limousine for hire or taxicab, if the driver consents and the driver ascertains that all passengers consent to smoking in the vehicle;

(3) smoking by performers on the stage as part of a theatrical or entertainment production. (§ 1 ch 125 SLA 1975; am § 3 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.320. Designation of smoking sections.

(d) Notwithstanding any other provision in this chapter, a smoking section may not be designated under this section for students on the grounds of or in an elementary or secondary school, indoors or outdoors. (§ 1 ch 125 SLA 1975; am § 4 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.330. Display of smoking and no smoking signs. (a) A person in charge of a place or vehicle described in AS 18.35.300, except a limousine for hire or taxicab, shall conspicuously display in the place or vehicle a sign that reads "Smoking Prohibited by Law — Maximum Fine \$50" and that includes the international symbol for no smoking.

(b) In a place or vehicle in which a smoking section has been designated under AS 18.35.320, the person in charge of the place or vehicle shall conspicuously display signs that specify the portions of the place or vehicle in which smoking is allowed by law and in which smoking is prohibited by law.

(c) A sign required by this section must be at least 18 inches wide and six inches high, with lettering at least 1.25 inches high.

(d) The department shall furnish signs required under this section to a person who requests them with the intention of displaying them. (§ 1 ch 125 SLA 1975; am § 5 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

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Chapter 70. Fire Protection.

Article 1. Prevention and Investigation.

Sec. 18.70.080. Regulations. (a) The Department of Public Safety shall adopt regulations for the purpose of protecting life and property from fire and explosion by establishing minimum standards for

- (1) fire detection and suppression equipment;
- (2) fire and life safety criteria in commercial, industrial, business, institutional or other public building, and buildings used for residential purposes containing four or more dwelling units;
- (3) any activity in which combustible or explosive materials are stored or handled in commercial quantities;
- (4) conditions or activities carried on outside a building described in (2) or (3) of this section likely to cause injury to persons or property.

(b) The commissioner of public safety may establish by regulation and the department may charge reasonable fees for fire and life safety plan checks made to determine compliance with regulations adopted under (a)(2) of this section. The commissioner of administration shall separately account for fees collected under this subsection so that the Department of Public Safety deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this chapter. (§ 8 ch 66 SLA 1955; am §§ 1, 2 ch 176 SLA 1968; am § 1 ch 23 SLA 1971; am § 38 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment added subsection (b).

Article 3. General Provisions.

Sec. 18.70.300. Definition of building. In this chapter "building" means a structure, installation, facility, or edifice erected or in the process of being erected and that is used or intended for use as a commercial, industrial, business, institutional, other public building, or residential building containing four or more dwelling units. (§ 4 ch 176 SLA 1968; am § 27 ch 32 SLA 1971)

Title 21. Insurance.

Chapter 76. Joint Insurance Arrangements.

Section	Section
10. Authority to establish joint insurance arrangements	60. Delegation of power to settle claims
20. Regulation by division of insurance	70. Excess insurance
30. General provisions of cooperative agreements	80. Joint insurance fund
40. Financial provisions of agreements	90. Filing of agreement
50. Contracting with private administrators	100. Regulations
	110. Subrogation
	900. Definitions

Sec. 21.76.010. Authority to establish joint insurance arrangements. (a) Municipalities, city and borough school districts, and regional educational attendance areas may enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions in order to either assume risks from losses to the participants on a group basis or purchase coverage for the participants on a group basis.

(b) A joint insurance arrangement may be for any kind of insurance defined by this title except for disability insurance, health insurance, life insurance, and title insurance.

(c) A joint insurance arrangement shall be considered an alternative or supplement to any other policy or contract of insurance authorized or required by law, including insurance under AS 21.75.

(d) For purposes of AS 23.30.075, a joint insurance arrangement is considered to be an association duly authorized to transact workers' compensation insurance in the state. (§ 1 ch 136 SLA 1986)

Sec. 21.76.020. Regulation by division of insurance. (a) A joint insurance arrangement may not be considered insurance for the purpose of any other law of the state and is not subject to regulations of the director except as expressly provided in (b) — (d) of this section and other provisions of this chapter.

(b) A joint insurance arrangement is subject to examination by the division under AS 21.06.140 — 21.06.230.

(c) A joint insurance arrangement is subject to approval by the director. As a condition of approval by the director, a joint insurance arrangement shall have and maintain, as to the coverage provided,

(1) a certificate of excess insurance or reinsurance

(A) for property insurance, to the value of the single most valuable property covered;

(B) for liability insurance, to the highest policy limit provided by the arrangement;

(C) for workers' compensation, to the extent of all benefits allowed by law above retention;

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(2) a certificate of insurance limiting the arrangement's total exposure for liability and workers' compensation to the arrangement's aggregate retention;

(3) assets allowable under AS 21.21.020 — 21.21.140, 21.21.225, or 21.21.230 in an amount no less than the arrangement's aggregate retention plus an amount considered adequate by the director to cover administrative and adjustment expenses.

(d) The value of assets and liabilities under (c) of this section shall be determined in accordance with AS 21.18. (§ 1 ch 136 SLA 1986)

Sec. 21.76.030. General provisions of cooperative agreements. A cooperative agreement shall provide for the proper operation of the joint insurance arrangement, and include provisions for

(1) administration of the arrangement by a board of directors, specifying the number of members of the board and other requirements necessary for the proper functioning of the board;

(2) appointment of an administrator and other persons as necessary for the proper functioning of the arrangement;

(3) organization of the arrangement, including a roster of participating members and the names of the members of the board of directors;

(4) procedures to establish and promote an aggressive risk management and program among the members of the arrangement, including procedures for identifying and reducing the risks that can be reduced through implementing better safety technologies and improved work techniques and procedures;

(5) enforcing the collection of contributions or payments in default from members of the arrangement;

(6) the addition of new members to the arrangement or the withdrawal of members from the arrangement;

(7) the method of apportioning costs and disposition of excess contributions;

(8) transmission of financial statements and audit reports of the arrangement to participating members;

(9) terminating the arrangement and disposing of its assets; and

(10) establishing and administering a joint insurance fund. (§ 1 ch 136 SLA 1986)

Sec. 21.76.040. Financial provisions of agreements. (a) A cooperative agreement must include a provision requiring an annual determination by a casualty actuary who is a member of the American Academy of Actuaries that procedures for establishing reserves for losses of the joint insurance arrangement are actuarially sound.

(b) A joint insurance arrangement shall be subject to an annual independent audit. The audit shall be conducted in accordance with generally accepted auditing standards and must include a review of

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the actuarial assumptions used for establishing the reserves under (a) of this section. The audit report must include certification from a casualty actuary who is a member of the American Academy of Actuaries that the actuarial assumptions continue to be sound and the level of the reserves are adequate. (§ 1 ch 136 SLA 1986)

Sec. 21.76.050. Contracting with private administrators. A cooperative agreement may authorize the board of directors to enter into contracts for services necessary to perform the functions of a joint insurance arrangement. The person contracting to perform the functions must be appropriately licensed under this title if this title so requires. (§ 1 ch 136 SLA 1986)

Sec. 21.76.060. Delegation of power to settle claims. A cooperative agreement may delegate to the board of directors, or authorize delegation by the board to another person or group, the power to compromise, arbitrate, or otherwise settle claims on behalf of the arrangement. (§ 1 ch 136 SLA 1986)

Sec. 21.76.070. Excess insurance. A cooperative agreement may authorize the board of directors to purchase excess or catastrophic insurance on behalf of the joint insurance arrangement. The cost of the insurance shall be apportioned in the manner specified in the joint insurance agreement. The board may purchase insurance under this section only from an insurer authorized to do business in the state, except that an arrangement formed by municipalities or school districts may purchase insurance under this section from a risk-sharing pool established by a national association of similar entities if the risk-sharing pool meets the qualifications for an unauthorized insurer under AS 21.34.040(b) and (d) and 21.34.220 and has capital and policyholders surplus in an amount at least as great as would be required if the association were a domestic multiple line insurer. An arrangement may purchase insurance under this section for property and liability risks from unauthorized insurers allowed for use by licensed Alaska surplus lines brokers. (§ 1 ch 136 SLA 1986)

Sec. 21.76.080. Joint insurance fund. (a) A joint insurance arrangement shall establish a joint insurance fund. The fund consists of money

(1) contributed by members of the joint insurance arrangement through budgetary appropriations or transfers from a self-insurance reserve;

(2) contributed by officers and employees of members of the joint insurance arrangement under an employee benefit plan; and

(3) collected by the joint insurance arrangement through subrogation of a claim paid from the fund to a member of the arrangement.

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(b) An expenditure may be made from a joint insurance fund only to pay claims, losses, or benefits, including interest on them, and the administrative and adjustment expenses incurred in connection with them, involving the types of protection for which the fund provides coverage as specified in the joint insurance agreement.

(c) The administrator shall keep the fund separate from other funds of a member of a joint insurance arrangement.

(d) For each type of protection offered by the joint insurance arrangement, the method of accounting must show the order, source, date, and amount of each payment from the fund.

(e) Within 60 days of the end of the fiscal year, the administrator shall furnish a detailed report of the operation and condition of the fund to the board of directors and the director of insurance. The report furnished to the director of insurance shall be

- (1) filed in the general form and context acceptable to the director;
- (2) in accordance with accounting principles established under this title; and
- (3) available for public inspection.

(f) Money held by a fund as reserves and money not needed for daily operations may be invested by the board of directors.

(g) A fund may not be terminated unless the administrator certifies that an amount of money sufficient to pay accrued and contingent expenditures has been placed in a fully collateralized escrow account. (§ 1 ch 136 SLA 1986)

Sec. 21.76.090. Filing of agreement. The board of directors shall file a copy of the cooperative agreement with the director of insurance at least 60 days before the effective date of the agreement. The agreement shall be available for public inspection. (§ 1 ch 136 SLA 1986)

Sec. 21.76.100. Regulations. A cooperative agreement may authorize the board of directors to adopt rules not inconsistent with law for the fair and equitable administration of the joint insurance arrangement and the joint insurance fund. (§ 1 ch 136 SLA 1986)

Sec. 21.76.110. Subrogation. A joint insurance arrangement has a right of subrogation with respect to its participants to the same extent that an insurer has a right of subrogation with respect to one of its insureds. (§ 1 ch 136 SLA 1986)

Sec. 21.76.900. Definitions. In this chapter

- (1) "adjustment expenses" means expenses for investigative, processing, legal, actuarial, arbitration, and settlement services incurred in the adjustment of losses, claims, or benefits;

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(2) "administrator" means a person or group appointed by the board of directors to administer a joint insurance arrangement or a joint insurance fund;

(3) "board" or "board of directors" means the board of directors provided for in a cooperative agreement;

(4) "cooperative agreement" means a written agreement entered into by two or more entities described in AS 21.76.010 for the purpose of establishing, operating, or participating in a joint insurance arrangement;

(5) "fund" or "joint insurance fund" means a fund established under AS 21.76.080;

(6) "joint insurance arrangement" means a joint insurance arrangement authorized under AS 21.76.010. (§ 1 ch 136 SLA 1986)

Title 23. Labor and Workers' Compensation.

Chapter 15. Employment Services.

Article

1. Vocational Rehabilitation (§§ 23.15.010 — 23.15.210)
2. Governor's Committee on Employment of Handicapped (§§ 23.15.220 — 23.15.320)
3. Employment Agencies (§§ 23.15.330 — 23.15.520)
4. Manpower Development and Training (§§ 23.15.611, 23.15.614)
5. Work Incentive Program for Welfare Recipients (§ 23.15.650)

Article 1. Vocational Rehabilitation.

Section	Section
10. Board of Vocational Rehabilitation	130. Vocational rehabilitation small business enterprise revolving fund
20. Powers and duties of board	132. Vending facilities
30. Appointment of administrative officers	133. Vendors' licenses
40. Division of vocational rehabilitation established	134. Active participation by severely handicapped licensees
50. Director of vocational rehabilitation	135. Committee of blind vendors
60. Agreements under Social Security Act	150. Receipt and disbursement of funds
70. Personnel policies	160. Gifts
80. Eligibility for vocational rehabilitation service	170. Maintenance not assignable
90. Priority as to eligibility	180. Hearings
100. Powers and duties	190. Misuse of lists and records
110. Extension of services outside state	200. Limitation on political activity
120. Cooperation with federal government	210. Definitions

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Collateral references. — 48A Am. Jur.
2d, Labor and Labor Relations, §§ 2662,
2663.

51 C.J.S., Labor Relations, § 1044.

Sec. 23.15.010. Board of Vocational Rehabilitation. The Board of Education which administers the program of vocational education is designated as the Board of Vocational Rehabilitation to administer the vocational rehabilitation program. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960)

Sec. 23.15.020. Powers and duties of board. (a) The board may cooperate with a federal agency, as provided and required by federal law for vocational rehabilitation.

(b) The board shall comply with these federal laws and the conditions necessary to secure the full benefit of the federal vocational rehabilitation laws, and shall do all things necessary to entitle the state to receive the benefits of the federal laws.

(c) The board may do all the things and adopt the regulations which are necessary to carry out the federal laws and the purposes of AS 23.15.010 — 23.15.210. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960)

Sec. 23.15.030. Appointment of administrative officers. The board may appoint administrative officers, and delegate to them the authority necessary to carry out AS 23.15.010 — 23.15.210. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960)

Sec. 23.15.040. Division of vocational rehabilitation established. The division of vocational rehabilitation is established under the Board of Vocational Rehabilitation to carry out AS 23.15.010 — 23.15.210. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 18 ch 208 SLA 1975)

Sec. 23.15.050. Director of vocational rehabilitation. The board shall appoint a director of the division of vocational rehabilitation. The director has the administrative authority delegated by the board and necessary to carry out AS 23.15.010 — 23.15.210 and the regulations and policies adopted by the board. (§ 37-9-6 ACLA 1949; am § 2 ch 144 SLA 1957; am §§ 2, 3 ch 79 SLA 1960; am § 9 ch 96 SLA 1967; am § 19 ch 208 SLA 1975)

Sec. 23.15.060. Agreements under Social Security Act. (a) The board acting through the division of vocational rehabilitation may enter into necessary agreements on behalf of the state with the Secre-

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tary of Health and Human Services to carry out the provisions of the federal Social Security Act, as amended, and as it is subsequently amended, relating to the making of determinations of disability under Title II and Title XVI of that Act.

(b) The Department of Revenue shall act as the custodian of funds paid by the federal government to the state, shall comply with agreements entered into under the Social Security Act, and shall disburse the funds in accordance with instructions from the director of the division of vocational rehabilitation. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 20 ch 208 SLA 1975; am § 1 ch 5 SLA 1978)

Cross references. — For federal law XVI of the Social Security Act, see 42 relating to eligibility under Titles II and U.S.C. 422 and 1382.

Sec. 23.15.070. Personnel policies. The board shall adopt personnel policies for the division of vocational rehabilitation. The director shall execute these policies and keep them on file. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 21 ch 208 SLA 1975)

Sec. 23.15.080. Eligibility for vocational rehabilitation service.

(a) Vocational rehabilitation service shall be provided directly or through a public or private instrumentality to a handicapped individual who

(1) is a resident of the state at the time of application for the service and whose vocational rehabilitation the agency determines after full investigation can be satisfactorily achieved; or

(2) is eligible for the service under an agreement with another state or with the federal government.

(b) In determining the types and extent of vocational rehabilitation services to be provided to a handicapped individual, the agency shall take into consideration any similar benefits which may be available to the individual under other programs. However, the agency may not take other benefits into consideration when doing so would significantly delay the provision of needed services to the handicapped individual. The agency need not take other benefits into consideration when they are for

(1) diagnostic and related services, including transportation and subsistence in connection with those services;

(2) counseling, guidance, and referral;

(3) training, including personal and vocational adjustment training, and necessary training materials;

(4) services to members of families of handicapped individuals;

(5) job placement; and

(6) services necessary to assist handicapped individuals to maintain suitable employment. (§ 37-9-7(1) ACLA 1949; am § 3 ch 144 SLA 1957; am § 2 ch 5 SLA 1978)

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Sec. 23.15.090. Priority as to eligibility. If vocational rehabilitation service cannot be provided for all eligible handicapped individuals who apply, the agency shall provide by regulation for determining the order to be followed in selecting those to whom the services will be provided. (§ 37-9-7(2) ACLA 1949; am § 3 ch 144 SLA 1957)

Sec. 23.15.100. Powers and duties. (a) In carrying out AS 23.15.010 — 23.15.210 the agency shall

(1) take the action it considers necessary or appropriate to carry out the purposes of AS 23.15.010 — 23.15.210, and adopt regulations in conformity with these purposes;

(2) determine the eligibility of applicants for vocational rehabilitation service;

(3) submit to the governor annual reports of activities and expenditures and, before each regular session of the legislature, estimates of sums required for carrying out AS 23.15.010 — 23.15.210 and estimates of the amounts to be made available for this purpose from all sources;

(4) cooperate with public and private departments, agencies and institutions in providing for the vocational rehabilitation of handicapped individuals, studying the problems involved in providing this rehabilitation, and establishing, developing and providing, in conformity with the purposes of AS 23.15.010 — 23.15.210, the programs, facilities and services which may be necessary or desirable;

(5) survey the potential for providing vending facilities on public property and, when feasible, establish vending facilities operated by blind persons and severely handicapped persons on public property;

(6) license blind persons and severely handicapped persons in accordance with AS 23.15.133 for the operation of vending facilities on public property, with blind persons having first priority for operation of the vending facilities;

(7) provide the training and supervision necessary to enable blind persons and severely handicapped persons to operate vending facilities;

(8) provide the equipment and initial stock necessary to enable blind persons and severely handicapped persons to operate vending facilities.

(b) In carrying out AS 23.15.010 — 23.15.210, the agency may

(1) enter into agreements with other states to provide for the vocational rehabilitation of residents of the states concerned;

(2) establish and operate rehabilitation facilities and workshops and make grants to public and other nonprofit organizations for these purposes;

(3) supervise the operation of vending stands and other small businesses established under AS 23.15.010 — 23.15.210 to be conducted by severely handicapped individuals;

(4) make studies, investigations, demonstrations and reports, and provide training and instruction, including the establishment and maintenance of the research fellowships and traineeships with the

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stipends and allowances which are considered necessary, in matters relating to vocational rehabilitation; and

(5) *[Repealed, § 10 ch 69 SLA 1982.]*

(6) adopt regulations necessary for carrying out the provisions of AS 23.15.010 — 23.15.210. (§ 37-9-8(1)(2) ACLA 1949; am § 4 ch 144 SLA 1957; am § 1 ch 75 SLA 1976; am §§ 1, 10 ch 69 SLA 1982)

Cross references. — For present law covering the subject matter of repealed (b)(5) of this section, see AS 23.15.133.

Effect of amendments. — The 1982 amendment, in subsection (a), added paragraphs (5) — (8) and, in subsection (b), repealed paragraph (5), which read

"license blind and severely handicapped persons for the operation of vending facilities on federal property and in public buildings, with blind persons having first priority for operation of the vending facilities; and".

Sec. 23.15.110. Extension of services outside state. Vocational rehabilitation service may be extended to the continental United States to all individuals eligible under AS 23.15.010 — 23.15.210. The director of the division of vocational rehabilitation may place professional or clerical personnel or both inside the continental United States to carry out the purposes of AS 23.15.010 — 23.15.210. (§ 37-9-8(3) ACLA 1949; am § 4 ch 144 SLA 1957; am § 22 ch 208 SLA 1975)

Sec. 23.15.120. Cooperation with federal government. (a) The agency shall cooperate with the federal government in carrying out the purposes of federal laws pertaining to vocational rehabilitation, including the licensing of blind persons to operate vending stands on federal property, and may adopt the methods of administration which are found by the federal government to be necessary for the proper and efficient operation of agreements or plans for vocational rehabilitation. The agency may comply with the conditions which are necessary to obtain the full benefits of the federal laws for the state and its residents.

(b) Upon designation by the governor, the agency may perform functions and services for the federal government relating to individuals under a physical or mental disability, in addition to those provided in (a) of this section. (§ 37-9-9 ACLA 1949; am § 5 ch 144 SLA 1957)

Sec. 23.15.130. Vocational rehabilitation small business enterprise revolving fund. (a) There is created in the state treasury a revolving fund designated as the vocational rehabilitation small business enterprise revolving fund. The fund shall be administered by the director.

(b) Receipts from the net proceeds of vending facilities on public property, other than vending facilities operated by a licensee, shall be paid into the fund.

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(c) The commissioner of administration shall separately account for receipts under (b) of this section that are paid into the vocational rehabilitation small business enterprise revolving fund. The annual estimated receipts of the fund may be used by the legislature to make appropriations to the department to aid licensees in operating vending machine facilities.

(d) In this section "net proceeds" means the gross receipts from operating a vending facility less the costs of operation and a fair return to the operator, to be determined by the agency. (§ 37-9-10 ACLA 1949; added by § 6 ch 144 SLA 1957; am § 3 ch 75 SLA 1976; am § 2 ch 69 SLA 1982; am § 45 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment rewrote subsection (c).

Sec. 23.15.132. Vending facilities. (a) A vending facility may not be established on public property that is under the jurisdiction of the state except as authorized by the commissioner of education.

(b) A vending facility authorized by the commissioner of education shall be selected and located after consulting with the persons responsible for the maintenance and operation of the property to be served by the vending facility. A contract for the operation of the vending facility by a licensee shall be executed by the agency and shall contain provisions insuring that the licensee shall charge reasonable prices and that the vending facility shall provide high quality merchandise. (§ 3 ch 69 SLA 1982)

Editor's notes. — Section 9, ch. 69, SLA 1982, provides: "Notwithstanding AS 23.15.132 enacted in sec. 3 of this Act, a vending facility being operated on public property on August 26, 1982 may continue in operation until the contract under

which the vending facility is being operated expires or is terminated. After the contract expires or is terminated, the vending facility shall cease to operate until the provisions of AS 23.15.132 are met."

Sec. 23.15.133. Vendors' licenses. (a) The agency shall issue a license for the operation of a vending facility on public property to a blind person or severely handicapped person who is a resident of the state at the time of application and who qualifies for a license under

(1) 20 U.S.C. 107-107(f) (the Randolph-Sheppard Act); or

(2) regulations adopted by the agency providing for licensing of blind persons or severely handicapped persons.

(b) A license issued under this section does not expire. However, a license may be revoked if the agency finds that the licensee is not operating the facility in accordance with regulations adopted by the agency. (§ 3 ch 69 SLA 1982)

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Sec. 23.15.134. Active participation by severely handicapped licensees. The agency shall adopt regulations that insure the opportunity for active participation by a severely handicapped licensee in the administration of vending facilities operated by severely handicapped licensees. The opportunity for active participation provided under this section shall be at least as extensive as the opportunity for active participation provided for a blind licensee under AS 23.15.135. (§ 3 ch 69 SLA 1982)

Sec. 23.15.135. Committee of blind vendors. (a) The Committee of Blind Vendors consisting of all blind licensees is established. The agency shall conduct a biennial election of a president, vice-president, secretary, and treasurer of the committee and may conduct elections to fill vacancies in office at any time.

(b) The commissioner of education shall assure active participation by the Committee of Blind Vendors in administrative, policy, and program development decisions concerning vending facilities operated by blind licensees. The agency shall, with active participation by the Committee of Blind Vendors,

(1) adopt regulations providing for the licensing of blind persons for the operation of vending facilities on public property;

(2) consider and respond to grievances of blind licensees;

(3) develop and administer a statewide system for the transfer and promotion of blind licensees;

(4) develop training and retraining programs for blind licensees and for blind persons interested in obtaining a license to operate a vending facility;

(5) organize meetings and conferences for blind licensees;

(6) adopt regulations necessary to assure that vending facilities operated by blind licensees are administered by the agency in a substantially equivalent manner whether a vending facility is located on state or federal property;

(7) designate public property as appropriate for the location of a vending facility operated by a blind licensee.

(c) To insure the opportunity for active participation in decisions that affect the administration of vending facilities operated by blind licensees the agency shall, before each meeting of the Committee of Blind Vendors, provide the committee with written information on matters to be considered. The agency shall provide the committee with reasons in writing for decisions and actions of the agency that do not conform to recommendations submitted by the committee. (§ 3 ch 69 SLA 1982)

Sec. 23.15.140. Vocational Rehabilitation Fund. *[Repealed, § 2 ch 23 SLA 1968.]*

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Sec. 23.15.150. Receipt and disbursement of funds. The Department of Revenue is designated custodian of all vocational rehabilitation funds in the state. (§ 37-9-12 ACLA 1949; added by § 6 ch 144 SLA 1957)

Sec. 23.15.160. Gifts. The board may accept a gift or donation from a public or a private source which is offered unconditionally for carrying out AS 23.15.010 — 23.15.210. The board may accept a conditional gift if, in the judgment of the agency, the conditions are proper and consistent with AS 23.15.010 — 23.15.210. (§ 37-9-13 ACLA 1949; added by § 6 ch 144 SLA 1957; am § 3 ch 23 SLA 1968)

Sec. 23.15.170. Maintenance not assignable. The right of a handicapped individual to maintenance under AS 23.15.010 — 23.15.210 is not transferable or assignable at law or in equity. (§ 37-9-14 ACLA 1949; added by § 6 ch 144 SLA 1957)

Sec. 23.15.180. Hearings. (a) An individual applying for or receiving vocational rehabilitation who is aggrieved by the action or inaction of the agency is entitled to a fair hearing by the agency, in accordance with regulations.

(b) A blind person or severely handicapped person aggrieved by a decision or action of the agency under AS 23.15.133 — 23.15.135 shall receive a hearing on request in accordance with the Administrative Procedure Act (AS 44.62.330 — 44.62.630). A blind person may also file a complaint in accordance with 20 U.S.C. 107d-1 for arbitration of a grievance. (§ 37-9-15 ACLA 1949; added by § 6 ch 144 SLA 1957; am § 4 ch 69 SLA 1982)

Effect of amendments. — The 1982 amendment added subsection (b).

Sec. 23.15.190. Misuse of lists and records. Except for purposes directly connected with the administration of the vocational rehabilitation program and in accordance with regulations, a person may not solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of a list of, names of, or information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly, derived from the records, papers, files, or communications of the state or an agency of the state, or acquired in the course of the performance of official duties. An officer or employee violating this provision is subject to discharge or suspension. (§ 37-9-16 ACLA 1949; added by § 6 ch 144 SLA 1957)

Sec. 23.15.200. Limitation on political activity. An officer or employee engaged in the administration of the vocational rehabilitation program may not use official authority to influence or permit the

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use of the vocational rehabilitation program for the purpose of interfering with an election or affecting the results of an election or for a partisan political purpose. An officer or employee may not solicit or receive, and an officer or employee may not be obliged to contribute or render, a service, assistance, subscription, assessment, or contribution for a political purpose. An officer or employee violating this section is subject to discharge or suspension. (§ 37-9-17 ACLA 1949; added by § 6 ch 144 SLA 1957)

Sec. 23.15.210. Definitions. In AS 23.15.010 — 23.15.210

(1) "active participation" means a process through which the Committee of Blind Vendors or a licensee is provided the opportunity to exert a major influence in program policies, standards, and procedures affecting the operation of vending facilities, with the commissioner of education having final responsibility;

(2) "agency" means the division of vocational rehabilitation;

(3) "blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees; an examination by an ophthalmologist or by an optometrist is necessary before a person is found to be blind;

(4) "board" means the Board of Education acting as the Board of Vocational Rehabilitation;

(5) "director" means the director of the division of vocational rehabilitation;

(6) "handicapped individual" means an individual having a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment and who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services;

(7) "individual having a physical or mental disability" means an individual who has a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting the individual's activities or functioning;

(8) "licensee" means a blind or severely handicapped person licensed by the division of vocational rehabilitation under 20 U.S.C. 107-107b and 107d-107f (the Randolph-Sheppard Act), AS 23.15.133, and regulations adopted under federal or state law;

(9) "public property" means real or personal property owned or leased by the state, or federal government, or an agency of the state or federal government;

(10) "severely handicapped person" means a person who has one or more physical or mental disabilities which seriously limit the person's functional capacities in terms of regular employment, and whose

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vocational rehabilitation requires multiple vocational rehabilitation services over an extended period of time;

(11) "vending facility" means a vending machine, cafeteria, snack bar, shelter, cart, or counter where food, tobacco, newspapers, periodicals, and other articles are offered for sale to the general public and dispensed automatically or manually whether prepared on or off the premises; and excludes a facility in a hospital, school, or other institution where food or other articles are offered for sale only to patients, inmates, and persons enrolled in or employed by the institution;

(12) "vocational rehabilitation service" means goods and services, including diagnostic and related services, necessary to enable a handicapped individual to engage in gainful employment;

(13) "workshop" means a rehabilitation facility engaged in a production or service operation which is operated for the primary purpose of providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot readily be absorbed in the competitive labor market or during times when employment opportunities for them in the competitive labor market do not exist. (§ 37-9-5 ACLA 1949; am § 1 ch 169 SLA 1955; am § 1 ch 144 SLA 1957; am § 23 ch 208 SLA 1975; am § 2 ch 75 SLA 1976; am §§ 3—6 ch 5 SLA 1978; am §§ 5—8 ch 69 SLA 1982)

Revisor's notes. — This section was reorganized in 1984 to place the defined terms in alphabetical order.

Effect of amendments. — The 1982 amendment substituted "AS 23.15.133, and regulations adopted under federal or

state law" for "AS 23.15.100(b)(5), and any regulations issued under federal law or AS 23.15.100(b)(5)" in present paragraph (8), rewrote present paragraphs (9) and (11) and added present paragraph (1).

NOTES TO DECISIONS

Quoted in *Bignell v. Wise Mechanical Contractors*, Sup. Ct. Op. No. 2566 (File No. 5929), P.2d (1982).

Chapter 20. Alaska Employment Security Act.

Article 6. Benefits.

Sec. 23.20.382. Benefits while attending approved vocational training course. (a) Benefits or waiting-week credit for any week may not be denied an otherwise eligible individual because the individual is attending a vocational training or retraining course with the approval of the director of the employment security division or because,

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while attending the course, the individual is not available for work or refuses an offer of work.

(b) An otherwise eligible individual may not be denied benefits or waiting-week credit for any week because

(1) the individual is in training approved under 19 U.S.C. 2296(a)(1) (sec. 236(a)(1), Trade Act of 1974);

(2) the individual left work that was not suitable employment to enter the training; or

(3) while attending the training, the individual is not available for work, fails to seek work, or refuses work.

(c) In (b)(2) of this section, "suitable employment" means work that

(1) pays at least 80 percent of the individual's average weekly wage, as determined for the purposes of the Trade Act of 1974; and

(2) is at least equal in skill level to the individual's past adversely affected employment, as defined for purposes of the Trade Act of 1974. (§ 741.5 ch 5 ESLA 1955, added by § 1 ch 64 SLA 1962; am § 1 ch 74 SLA 1976; am § 14 ch 115 SLA 1982)

Cross references. — For definition of "average weekly wage" in the Trade Act, see 19 U.S.C. 2319(4); for definition of "adversely affected employment" in the Trade Act, see 19 U.S.C. 2319(1).

Effect of amendments. — The 1982 amendment designated the former provisions of this section as subsection (a), inserted "director of the" in that subsection, and added subsections (b) and (c).

Legislative history reports. — For report on ch. 74, SLA 1976 (HB 874 am), see 1976 House Journal, p. 805.

Opinions of attorney general. — To the extent that veteran's readjustment

benefits fell within the two categories of "subsistence" or "transportation," as used in § 5019(b)(1)(G), 8 Alaska Administrative Code, they did not affect a claimant's eligibility for Alaskan unemployment insurance benefits. 1966 Op. Att'y Gen., No. 12.

If the entire monthly amount received under Public Law 89-358, §§ 1681, 1682 was expended for subsistence, there was no objection to excluding it for the purpose of computing a claimant's unemployment insurance benefits. 1966 Op. Att'y Gen., No. 12.

Sec. 23.20.526. Exclusions from definition of "employment."

(a) In this chapter, unless the context otherwise requires, "employment" does not include

(1) domestic service in a private home, except as provided in AS 23.20.525(a)(15);

(d) For the purposes of AS 23.20.525(a)(4) — (6) and (14), the term "employment" does not apply to service performed

(1) by a duly ordained, commissioned, or licensed minister of a church in the exercise of the person's ministry or by a member of a religious order in the exercise of duties required by the order;

(2) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired

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physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving the rehabilitation or remunerative work;

(3) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or any agency of a state or political subdivision of the state, by an individual receiving work relief or work training;

(5) in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college or university;

(6) by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, except that this paragraph does not apply to service performed in a program established for or on behalf of an employer or group of employers;

Chapter 30. Alaska Workers' Compensation Act.

Article 6. General Provisions.

Sec. 23.30.237. High school students in work-study programs as employees of the state. An individual who is enrolled for credit at a public high school in a course which combines academic instruction with work experience outside the school for a public or private nonprofit employer is an employee of the state for the purposes of this chapter while the individual is performing the work experience. Weekly compensation for disability or death under this section may not be less than the initial payment of compensation under AS 23.30.175. (§ 1 ch 65 SLA 1980)

Title 24. Legislature.

Chapter 20. Agencies of the Legislature.

Article 2. Agencies of the Legislature.

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Sec. 24.20.270. *[Repealed, § 1 ch 95 SLA 1971.]*

Sec. 24.20.271. **Powers and duties.** The legislative audit division shall

(9) have direct access to any information related to the management of the University of Alaska and have the same right of access as exists with respect to every other state agency. (§ 2 ch 95 SLA 1971; am § 4 ch 46 SLA 1977; am § 4 ch 149 SLA 1977)

Cross references. — For legislative findings in connections with second 1977 amendment, see sec. 1, ch. 149, SLA 1977.

Legislative history reports. — For letter of intent in connection with first 1977 amendment (ch. 46, SLA 1977, HCSSB 261), see 1977 House Journal, p. 1019.

Opinions of attorney general. — Although AS 23.30.110 (a) and 43.20.190(a) guarantee confidentiality of records in the

Department of Labor and Revenue, subsection (6) of this section enables the Division of Audit to have access to the records of every state agency whether confidential or not. 1972 Op. Att'y Gen.

A legislative auditor may not examine confidential records on file for state income tax returns and wage information submitted by employees and employers to the Department of Labor in connection with the administration of the State Em-

Chapter 50. Student Guests of Legislature.

Section

10. Annual student guests
20. Selection by schools

Section

30. Arrangements
40. Essay contest

Sec. 24.50.010. Annual student guests. The legislature may each year while in session serve as host to one member of each high school in the state for a stay of one week in the capital to observe and learn the legislative process. (§ 1 ch 130 SLA 1962)

Sec. 24.50.020. Selection by schools. Each high school of the state may annually and before the end of the calendar year select one member of its student body as a legislative guest. (§ 2 ch 130 SLA 1962)

Sec. 24.50.030. Arrangements. When the representative has been selected under AS 24.50.020, the principal of the school shall certify the selection to the legislative council. The legislative council is responsible for making all necessary administrative and fiscal arrangements for the transportation and housing of the selected students in coordination with the principals. Funds for the transportation, housing, and meals of the students shall be included in the general appropriation for legislative expenses as budgeted for by the legislative council. (§ 3 ch 130 SLA 1962)

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Sec. 24.50.040. Essay contest. Before leaving the state capital, each legislative guest shall prepare and submit to the director of the Legislative Affairs Agency a paper of not less than 1,000 words entitled "The Legislature Should". Each paper shall be examined and judged as to content by the governor, the president of the senate, the speaker of the house of representatives, the minority leader of the senate and the minority leader of the house. The author of the paper determined best by majority vote shall receive a one-year scholarship to the University of Alaska. (§ 4 ch 130 SLA 1962; am § 40 ch 53 SLA 1973)

Title 28. Motor Vehicles.

Chapter 15. Drivers' Licenses.

Article 1. Issuance, Expiration and Renewal of Licenses.

Sec. 28.15.046. Licensing of school bus drivers. (a) In addition to the requirements of AS 28.15.041(a), a person may not drive a school bus transporting school children to or from a public school to enable them to participate in class or a school activity, or a bus transporting school children to or from a public school for classroom studies until the person has applied for and has been issued a license for that purpose under this section. This subsection does not apply to a person or motor vehicle exempted under regulations adopted by the commissioner. In this subsection "classroom studies" means curriculum studies that take place in a public school building.

(b) The department may not issue a license under this section unless the applicant

- (1) is at least 19 years of age;
- (2) has had a license to operate a motor vehicle at least one year before the date of application;
- (3) has successfully completed all required driving, written, and physical examinations;
- (4) has submitted information sufficient to complete a background check consisting of a fingerprint check of national criminal records and state criminal records of the state or states in which the applicant has resided for the past two years;
- (5) has completed a state approved school bus driver training course established under AS 14.07.020(a)(14) or has for the previous two years been licensed by the state to operate a school bus.

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(c) The department may not issue a license under this section to an applicant who has been convicted of any of the following offenses within 20 years of the time of application:

- (1) sexual abuse of a minor in any degree (AS 11.41.434 — 11.41.440);
- (2) sexual assault in any degree (AS 11.41.410 or 11.41.420);
- (3) incest (AS 11.41.450);
- (4) unlawful exploitation of a minor (AS 11.41.455);
- (5) contributing to the delinquency of a minor (AS 11.51.130);
- (6) a felony involving possession of a controlled or imitation controlled substance (AS 11.71 or AS 11.73);
- (7) a felony or misdemeanor involving distribution of a controlled or imitation controlled substance (AS 11.71 or AS 11.73);
- (8) promoting prostitution in the first or second degree (AS 11.66.110 or 11.66.120).

(d) The department may not issue a license to an applicant who has been convicted of driving while intoxicated (AS 28.35.030) within two years of the time of application or to an applicant who has two or more convictions for driving while intoxicated within 10 years of the time of application.

(e) For purposes of determining whether an applicant has been convicted of an offense listed under (c) or (d) of this section, a conviction under prior state law or in another jurisdiction of an offense having elements substantially similar to those of the offenses listed in (c) or (d) of this section is considered a conviction.

(f) Costs of conducting the background check required under (b)(4) of this section shall be paid by the applicant. A license issued under this section expires on September 1 of the year following issuance. Application for renewal may be made by submitting to the department the results of a current physical examination and paying the required fee. (§ 3 ch 19 SLA 1986; am § 1 ch 13 SLA 1988)

Effect of amendments. — The 1988 subsection (a), added the last two sentences and rewrote the first sentence.

Title 29. Municipal Government.

Chapter 20. Municipal Officers and Employees.

Article 1. Conflict of Interest and Public Meetings.

Sec. 29.20.010. Conflict of interest. (a) Each municipality shall adopt a conflict of interest ordinance that provides that

- (1) a member of the governing body shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter;
- (2) the presiding officer shall rule on a request by a member of the

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governing body to be excused from a vote;

(3) the decision of the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by the majority vote of the governing body; and

(4) a municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.

(b) If a municipality fails to adopt a conflict of interest ordinance by June 30, 1986, the provisions of this section are automatically applicable to and binding upon that municipality.

(c) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

NOTES TO DECISIONS

This section does not prohibit enactment of ordinances which go beyond its requirements. *Acevedo v. City of North Pole*, Sup. Ct. Op. No. 2748 (File Nos. 7120, 7251), 672 P.2d 130 (1983), decided under former, similar law.

Limitation on eligibility of city officeholder for salaried position not preempted by section. — Home rule charter section which prohibited a person who holds or has held an elective city office from being eligible for appointment to an office or for employment for which a

salary is paid by the city until one year has elapsed following the term for which he was elected or appointed, unless an exception is made with the approval of four or more members of the city council, was not preempted by this section since the charter also contained a section prohibiting members of the city council from voting on matters in which they have a pecuniary interest. *Acevedo v. City of North Pole*, Sup. Ct. Op. No. 2748 (File Nos. 7120, 7251), 672 P.2d 130 (1983), decided under former, similar law.

Collateral references. — Validity, construction, and application of regulation regarding outside employment of gov-

ernmental employees or officers. 94 ALR3d 1230.

Sec. 29.20.020. Meetings public. (a) Meetings of all municipal bodies shall be public as provided in AS 44.62.310. The governing body shall provide reasonable opportunity for the public to be heard at regular and special meetings.

(b) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Collateral references. — Validity, construction, and application of statutes

making public proceedings open to the public. 38 ALR3d 1070.

Article 4. Boards and Commissions.

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Sec. 29.20.300. School boards. (a) Each municipal school district has a school board. Except as provided in (b) of this section, members of a school board are elected at the regular election for three-year terms and until their successors take office. Members are elected at large unless a different method of election has been approved by the voters in a regular election.

(b) The assembly is the school board for a third class borough. The mayor is the presiding officer of the assembly and president of the school board. However, the mayor may not veto an action of the school board. (§ 7 ch 74 SLA 1985)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 231-336.

Chapter 35. Municipal Powers and Duties.

Article 2. Mandatory Areawide Powers.

Sec. 29.35.150. Scope of areawide powers. A borough shall exercise the powers as specified and in the manner specified in AS 29.35.150 — 29.35.180 on an areawide basis. (§ 10 ch 74 SLA 1985)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 193-230.

Sec. 29.35.160. Education. (a) Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation in a borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education, operation, management, and control of schools on the military reservation transfers to the borough school district in which the military reservation is located.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

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Chapter 45. Municipal Taxation.

Article 1. Municipal Property Tax.

Sec. 29.45.020. Taxpayer notice. (a) If a municipality levies and collects property taxes, the governing body shall provide the following notice:

"NOTICE TO TAXPAYER

For the current fiscal year the (city)(borough) has been allocated the following amount of state aid for school and municipal purposes under the applicable financial assistance Acts:

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE (AS 14.17)	\$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 14.11.100)	\$
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE (AS 29.60.010 — 29.60.080)	\$
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.60.100 — 29.60.180)	\$
TOTAL AID	\$

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

	MILLAGE EQUIVALENT	
	PREVIOUS YEAR	THIS YEAR
PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	MILLS	MILLS
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	MILLS	MILLS
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE	MILLS	MILLS
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES	MILLS	... MILLS
TOTAL MILLAGE EQUIVALENT	MILLS	MILLS"

Notice shall be provided

- (1) by furnishing a copy of the notice with tax statements mailed for the fiscal year for which aid is received; or
- (2) by publishing in a newspaper of general circulation in the municipality a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the municipality's budget.

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(b) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.60.010 — 29.60.080 and state aid for miscellaneous municipal services under AS 29.60.100 — 29.60.180. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met. (§ 12 ch 74 SLA 1985)

Sec. 29.45.030. Required exemptions. (a) The following property is exempt from general taxation:

(1) municipal, state, or federally owned property, except that a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of an auxiliary of that organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section;

(7) real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended.

(b) In (a) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization;

(2) a structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a)(3) or (4) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

(d) Laws exempting certain property from execution under the Code of Civil Procedure (AS 09) do not exempt the property from taxes levied and collected by municipalities.

Chapter 65. General Grant Land.

Sec. 29.65.060. School and mental health land. (a) If an entitlement determined under AS 29.65.010 or 29.65.020 results in a per capita entitlement for the municipality of less than one and one-half acre, the municipality may select vacant school or mental health land in the municipality in partial fulfillment of its land entitlement under this chapter. School or mental health land may be selected notwithstanding the fact that this land is not unappropriated and unreserved within the meaning of this chapter and under former AS 29.18.190 and 29.18.200, but each selection of school or mental health land by a municipality must be vacant, unappropriated, or unreserved land as defined in this chapter, except that it need not be general grant land.

(b) The acreage of school, university or mental health land, if any, in a municipality may not be included in the determination of entitlement under AS 29.65.010 or 29.65.020.

(c) Land conveyed under this section will be credited against a municipality's remaining land entitlement under this chapter.

(d) Within six months after approval of a municipal selection of school or mental health land, the director shall identify state general grant land of approximately equal value to the land requested by the municipality and shall propose the replacement land for the concurrence of the appropriate board. If a proposal by the director is rejected by the board, the director shall meet with the board as often as necessary to determine the type and amount of equal value replacement land that would be required to obtain the board's concurrence, and shall propose the replacement land for consideration by the board. The replacement land shall thereafter be managed for the purposes for which the land selected by the municipality was acquired by the Territory and State of Alaska.

(e) The notice provisions of AS 38.05.945 apply to the designation of other general grant land as school, university or mental health land in replacement of land selected under this section. The provisions of AS 38.50 do not apply to such designations under this section.

(f) For purposes of determining the per capita entitlement under (a) of this section, the population of a municipality shall be the population determined by the commissioner under former AS 43.18.010 for the program year beginning July 1, 1978, for a municipality whose entitlement was determined under former AS 29.18.201 or 29.18.202.

(g) Notwithstanding (a) of this section, a municipality may not select school land or mental health land after October 4, 1985. Nothing in this section affects the legal rights of any person with regard to selections of school land or mental health land made by a municipality on or before October 4, 1985. (§ 17 ch 74 SLA 1985; am § 7 ch 34 SLA 1987)

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Effect of amendments. — The 1987 amendment, effective June 6, 1987, added subsection (g). added by the 1987 amendment, is retroactive to October 4, 1985, under § 13, ch. 34, SLA 1987.

Editor's notes. — Subsection (g).

Sec. 29.65.130. Definitions. In this chapter, unless the context otherwise requires,

(1) "approved selection" means a municipal land selection that has been approved in writing by the director for transfer by patent to a municipality;

(2) "director" means the director of lands, Department of Natural Resources;

(3) "general grant land"

(A) means land patented or tentatively approved to the state from the United States under § 6(a) or (b) of the Alaska Statehood Act;

(B) does not include university land;

(4) "mental health land" means land granted under Title II, § 202 of P.L. 84-830, as amended before or after July 1, 1978;

(5) "municipal land selection" means a request by a municipality, filed in writing with the director under authority of former AS 29.18.190 and 29.18.200 or under this chapter for vacant, unappropriated, unreserved general grant land within its municipal boundaries in partial fulfillment of its municipal entitlement;

(6) "patent" means a document, issued by the director to a municipality for a previously approved selection, that conveys and quitclaims all the right, title, and interest of the state without reservation or condition except as may be required by law;

(7) "remaining entitlement" means the general grant land entitlement determined in accordance with this chapter, reduced by the total acreage of approved selections, including both patented and unpatented parcels;

(8) "school land" means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under § 6(k), Alaska Statehood Act, 72 Stat. 339, and any other land designated solely for school revenues;

(9) "university land" has the meaning given in AS 38.05.965;

(10) "vacant, unappropriated, unreserved land" means general grant land as defined in (3) of this section, excluding minerals as required by § 6(i) of the Alaska Statehood Act, that

(A) has not been set aside by statute for one or more particular uses or purposes;

(B) has not been approved for patent to a municipality under this chapter or former AS 29.18.190 and 29.18.200;

(C) is unclassified or, if classified under AS 38.05.300, is classified for agricultural, grazing, material, public recreation, or settlement

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purposes, or is classified in accordance with an agreement between a municipality and the state providing for state management of land of the municipality; or

(D) was classified no earlier than September 1, 1983, as resource management and is still classified as resource management under AS 38.05.300. (§ 17 ch 74 SLA 1985; § 9 ch 34 SLA 1987)

Effect of amendments. — The 1987 amendment, effective January 1, 1988, in paragraph (10) substituted "material, public recreation, or settlement" for "com-

mercial, industrial, private recreational, residential, utility, or open-to-entry" in subparagraph (C), added subparagraph (D) and made related stylistic changes.

Title 35. Public Buildings, Works, and Improvements.

Chapter 15. Construction Procedures.

Section

- 10. Construction by department
- 20. Request for public bids
- 40. Procedures for the award of contracts
- 80. Local control of state public works projects

Section

- 90. Use of appropriated funds
- 100. Responsibility of department
- 110. Title to site and completion of project
- 120. Definitions

Cross references. — For nonapplicability of this chapter to memorials to Alaska veterans, see AS 44.35.030.

Collateral references. — Duty of pub-

lic authority to disclose to contractor information, allegedly in its possession, affecting cost or feasibility of project. 86 ALR3d 182.

Sec. 35.15.010. Construction by department. (a) Except as provided in AS 44.33.300, it is the general policy of the state to require the construction of all public works under bid contract in accordance with AS 36.30 (State Procurement Code). However, when the estimated cost of a construction project is less than \$100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or the commissioner's designee of all transactions entered into under this section including names of employees involved in the transactions.

(b) Construction or professional services in connection with the construction of a public work performed by the department under (a) of this section which have an estimated cost exceeding \$5,000 may not

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be performed by the department unless the commissioner determines, in writing, that the cost to the state will be less than that incurred as a result of a formally advertised or negotiated contract. The determination of the commissioner shall be supported by findings of fact which shall set out enough facts and circumstances to clearly justify the determination. The determinations and findings shall be maintained as a permanent record of the department.

(c) In this section, "professional services" means architectural, engineering, or land surveying services. (§ 1 art III title IV ch 152 SLA 1957; am § 5 ch 277 SLA 1976; am § 1 ch 143 SLA 1977; am § 4 ch 104 SLA 1978; am § 2 ch 144 SLA 1982; am § 34 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective January 1, 1988, in the first sentence in subsection (a), deleted "AS 36.98 and" preceding "AS 44.33.300", substituted "state" for "department", added "in accordance with AS 36.30 (State Procurement Code)" and made related grammatical changes.

Collateral references. — 64 Am. Jur. 2d, Public Works and Contracts, §§ 105, 119; 65 Am. Jur. 2d, Public Works and Contracts, §§ 211, 229.

72 C.J.S. Supplement, Public Contracts, § 1 et seq.

Sec. 35.15.020. Request for public bids. The solicitation of bids for construction of public works is governed by AS 36.30 (State Procurement Code). The request for bids may require the contractor to furnish equipment, labor, materials, and supplies for the project, or it may state that the department will furnish the materials and supplies. If the department elects to provide materials and supplies for a project, it shall make the election at the time it adopts the construction program. The department shall acquire these materials and supplies under AS 36.30 by requesting bids for them according to the class, type, and nature of the materials and supplies. The contract may be awarded either upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the department. Those materials and supplies so purchased by the department may be delivered to the project site without expense to the contractor, or it may sell them to the contractor at cost and make the materials and supplies a part of the construction cost. (§ 3 art III title IV ch 152 SLA 1957; am § 35 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective January 1, 1988, rewrote this section.

Collateral references. — Revocation, prior to execution of formal written contract, of vote or decision of public body

awarding contract to bidder. 3 ALR3d 864.

Public contracts: authority of state or its subdivision to reject all bids. 52 ALR4th 186.

Sec. 35.15.030. Advertisement, bids, contracts, and informal bids.
[Repealed, § 67 ch 106 SLA 1986]

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Sec. 35.15.040. Procedures for the award of contracts. Award of a contract for the construction of a public work shall comply with this title, AS 36.30 (State Procurement Code), and the regulations adopted under those laws. (§ 5 art III title IV ch 152 SLA 1957; am § 36 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective January 1, 1988, rewrote this section.

NOTES TO DECISIONS

Principles in awarding of contracts.

— Three important principles involved in the awarding of public contracts are (1) that the lowest bid price is preferred; (2) that rules of construction which are expressed in specifications should be followed in order to resolve discrepancies; and (3) that the intent of the bidder when it is evidenced from the face of the bid is significant. *Jensen & Reynolds Constr. Co. v. State, Dep't of Transp. & Pub. Facilities*, Sup. Ct. Op. No. 3034 (File No. S-850), 717 P.2d 844 (1986).

Departmental discretion not abused. — The Alaska Department of Transportation and Public Facilities did not abuse its discretion by determining that a construction company's bid could not be withdrawn because of its mistake where the mistake made was a small one compared to the size of the project and within the expectable variation of the con-

tractor's costs, the mistake would not cause the bidder to lose money, and the mistaken bid differed only slightly from one that was not mistaken; and the department did not abuse its discretion by applying its regulation favoring words over numerals. *Alaska Int'l Constr., Inc. v. Earth Movers of Fairbanks, Inc.*, Sup. Ct. Op. No. 2919 (File Nos. S-440, S-457), 697 P.2d 626 (1985).

Rule of construction not applied. — The lowest bid price and the apparent intent of the bidder to mean a lower numerically expressed unit price rather than the written price were the determinative factor in the awarding of a contract where a unit price as written was ten times the unit price as expressed in numbers. The words over numbers rule of construction was not applied. *Jensen & Reynolds Constr. Co. v. State, Dep't of Transp. & Pub. Facilities*, Sup. Ct. Op. No. 3034 (File No. S-850), 717 P.2d 844 (1986).

Collateral references. — Validity of governmental requirement of oath of allegiance or loyalty. 18 ALR2d 302.

Effect of stipulation, in public building or construction contract, that alterations or extras must be ordered in writing. 1 ALR3d 1273.

Revocation, prior to execution of formal, written contract, of vote or decision of public body awarding contract to bidder. 3 ALR3d 864.

Construction and operation of "equal opportunities clause" requiring pledge against racial discrimination in hiring under construction contract. 44 ALR3d 1283.

The validity and construction of "no damage" clause with respect to delay in building or construction contract. 74 ALR3d 187.

Construction contract provision excusing delay caused by "severe weather". 85 ALR3d 1085.

Duty of public authority to disclose to contractor information affecting cost or feasibility of project. 86 ALR3d 182.

Validity of statute giving preference to employment of residents by contractors. 36 ALR4th 941.

What constitutes "public work" within statute relating to contractor's bond. 48 ALR4th 1170.

Sec. 35.15.050. Award of contracts. [Repealed, § 67 ch 106 SLA 1986.]

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Sec. 35.15.060. Prior contracts unaffected. [Repealed, § 56 ch 14 SLA 1987.]

Sec. 35.15.080. Local control of state public works projects.

(a) A municipality may, by resolution of its governing body, request the assumption of all or part of the department's responsibilities relating to the planning, design, and construction of a public works project of the state that is to be located within the boundaries of the municipality and that would otherwise be constructed in the manner provided in AS 35.15.010. After receipt of the request, the department may provide by agreement for transfer to and assumption by the municipality of the department's responsibilities relating to the project, unless the commissioner determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state.

(b) If the commissioner of transportation and public facilities determines that assumption of responsibilities by a municipality under (a) of this section is not practicable or not in the best interests of the state, the commissioner shall notify the governing body of the municipality of the finding and specify reasons for it. If the governing body requests reconsideration of the decision, the commissioner shall hold a hearing in the municipality within 30 days following mailing of the request. Following the hearing, the commissioner may affirm, modify or reverse the initial decision and shall specify in writing the reasons.

(c) A municipality may request joint assumption of responsibilities with the department relating to the planning, design, and construction of a public works project. Two or more municipalities may by agreement provide for cooperative assumption of responsibilities relating to the planning, design, and construction of a public works project. If two or more municipalities request assumption of responsibilities for a project and meet the standard of practicability set out in (a) of this section, the commissioner shall determine which municipality is best able to direct planning, design, and construction of the project and enter into an agreement with that municipality or provide for joint or cooperative administration, as the parties may agree or the commissioner may determine. Decisions of the commissioner under this subsection are final.

(d) Provisions of this title governing planning, design, and construction of public works by the department, and regulations adopted under the provisions, govern the administration of projects assumed by a municipality or regional educational attendance area under this section. For that purpose the provisions supersede any conflicting provisions of ordinance or charter of a municipality.

(e) An organized borough may plan and construct public works under this section and make an agreement with the department for that purpose irrespective of restrictions of other provisions of law on the

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acquisition and exercise of borough powers. Borough exercise of the power conferred under this subsection does not preclude exercise by a city of the borough of the same power within the city.

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities for the planning, design and construction of public works under this section. The commissioner shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects, and AS 36.10.010 with respect to employment preference, and may require different terms in agreements for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.160 — 35.10.200. If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. Regulations adopted, amended or repealed by the department under this section which relate to educational facilities shall be developed in conjunction with the Alaska Association of School Boards and the Alaska Association of School Administrators and reviewed by those associations before final action on the regulations is taken by the department. (§ 1 ch 57 SLA 1976; am §§ 6, 7 ch 147 SLA 1978; am §§ 5, 6 ch 92 SLA 1982)

Sec. 35.15.090. Use of appropriated funds. Upon execution of an agreement under AS 35.15.080(a), state funds appropriated for a public works project that is the subject of the agreement shall be transferred to a special account in the state treasury. A municipality administering the project under the agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or cooperative administration of the project, payment of costs shall be made to the party incurring the costs. (§ 1 ch 57 SLA 1976; am § 8 ch 147 SLA 1978; am § 7 ch 92 SLA 1982)

Sec. 35.15.100. Responsibility of department. When a municipality or regional educational attendance area has assumed responsibility for a public works project under AS 35.15.080 — 35.15.120, the department is relieved of responsibility to the extent it is assumed by the municipality or regional educational attendance area. The department may provide technical assistance on the responsibility assumed if requested to do so by the municipality or area and shall be reasonably compensated for that assistance from the account established under AS 35.15.090. (§ 1 ch 57 SLA 1976)

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Sec. 35.15.110. Title to site and completion of project.

(a) Before advertisement for bids or construction contract negotiations, the department shall approve both the project site and the land interest in the site, except that, if the project involves construction of an educational facility, title or sufficient interest determined acceptable by the department to an approved site for a school building shall be vested in the municipality, the regional educational attendance area or the state before advertisement for bids or initiation of construction contract negotiations.

(b) Responsibility for maintenance of the project shall be established in the original contract agreement. The department shall participate in the final inspection of the project and approve of the final documents on the project. (§ 1 ch 57 SLA 1976; am § 1 ch 62 SLA 1978; am § 9 ch 147 SLA 1978)

Sec. 35.15.120. Definitions. In AS 35.15.080 — 35.15.120

(1) "construction" or any derivative of the term "construct" means, in addition to the meaning given in AS 35.95.100, selecting and acquiring a project site and necessary rights-of-way and easements, providing for and connecting to utilities, and building, supervising and inspecting the public works project;

(2) "governing body" means in the case of a municipality, its assembly or council, and, in the case of a regional educational attendance area, its regional school board. (§ 1 ch 57 SLA 1976; am § 2 ch 62 SLA 1978; am § 88 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment repealed former paragraph (3), which defined "municipality."

Editor's Note: Department refers to the Department of Transportation and Public Facilities. Commissioner refers to the Commissioner of the Department of Transportation and Public Facilities

Chapter 27. Art Works in Public Buildings and Facilities.

Section	Section
10. Purpose	30. Definitions
20. Art requirements for public buildings and facilities	

Cross references. — For nonapplicability of this chapter to memorials to Alaska veterans, see AS 44.35.030.

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Sec. 35.27.010. Purpose. The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities. (§ 1 ch 54 SLA 1975)

Legislative history reports. — For House State Affairs Committee report on ch. 54, SLA 1975 (CSHB 133(Fin)), see 1975 House Journal, p. 567; for House Finance Committee report on that bill, see 1975 House Journal, pp. 713-714; for Senate Finance Committee letter of intent on that bill, see 1975 Senate Journal, p. 939.

Sec. 35.27.020. Art requirements for public buildings and facilities. (a) A building or facility constructed after June 30, 1975, or remodeled or renovated after June 30, 1975, shall include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art.

(b) The department, before preparing plans and specifications for buildings and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one percent or, in the case of a rural school facility, at least one-half of one percent of the construction cost of a building or facility approved for construction by the legislature after September 1, 1977, will be reserved for the following purposes: the design, construction, mounting and administration of works of art in a school, office building, court building, vessel of the marine highway system, or other building or facility which is subject to substantial public use.

(d) A building or facility with an estimated construction cost of less than \$250,000 is exempt from the requirements of this chapter unless inclusion of works of art in the design and construction of the building or facility is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities.

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department shall make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident art-

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ists for the commission of these art works. (§ 1 ch 54 SLA 1975; am §§ 1, 2 ch 96 SLA 1977; am §§ 1 — 4 ch 176 SLA 1980)

Cross references. — For the responsibilities of the Alaska State Council on the Arts in the management of the Art in Public Places Fund, see AS 44.27.060.

Sec. 35.27.030. Definitions. In this chapter

(1) "building" or "facility" means a permanent improvement constructed by the department; the term

(A) includes, but is not limited to,

(i) schools, office buildings, and court buildings;

(ii) other buildings which the commissioner determines are designed for substantial public use;

(iii) boats and vessels of the marine highway system;

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities;

(2) "commissioner" means the commissioner of transportation and public facilities;

(3) "construction cost" is that cost expended for the actual construction of the facility, exclusive of the costs of land acquisition, site investigation, design services, administrative costs, equipment purchases and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility. (§ 1 ch 54 SLA 1975; am §§ 3, 4 ch 96 SLA 1977; am E.O. No. 39, § 11 (1977); am §§ 5, 6 ch 176 SLA 1980; am § 57 ch 14 SLA 1987)

Title 37. Public Finance.

Chapter 05. Fiscal Procedures Act.

Article 4. General Provisions.

Section	Section
290. Purpose	318. Further regulations prohibited
300. Interpretation of chapter	325. Definitions for AS 37.05.315 —
305. Applicability to University of Alaska	37.05.317
310. Fiscal year	400. Definitions for chapter
315. Grants to municipalities	410. Short title
316. Grants to named recipients	
317. Grants to unincorporated communities	

Sec. 37.05.290. Purpose. The purpose of this chapter is to provide uniform financial procedures for all state agencies with respect to

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accounting, purchasing, post auditing, and related financial procedures; and to revise financial procedures to obtain economy, efficiency, and integrity in handling public money. (§ 2 art I ch 82 SLA 1955; am § 2 ch 188 SLA 1970)

Sec. 37.05.300. Interpretation of chapter. This chapter shall be construed as supplemental to all other state laws not in conflict with it. If a section or part of a section of this chapter is in conflict with federal requirements for a program for which federal grant-in-aid funds are available, the section or part to the extent of the conflict is inoperative. (§ 1 art VIII ch 82 SLA 1955; am § 18 ch 186 SLA 1957)

Editor's notes. — For applicability of the chapter to the University of Alaska, see notes following chapter heading.

Sec. 37.05.305. Applicability to University of Alaska. The commissioner of administration may delegate the performance of the functions under this chapter as they relate to the university to the Board of Regents of the University of Alaska and set out the criteria and guidelines which shall be followed. The commissioner shall direct necessary stipulations and exercise monitoring responsibility for conformance through the Board of Regents of the University of Alaska. (§ 5 ch 46 SLA 1977)

Legislative history reports. — For (HCSSB 261), see 1977 House Journal, p. letter of intent on ch. 46, SLA 1977 1019.

Sec. 37.05.400. Definitions for chapter. In this chapter

(1) "fiscal year," "budget year," "accounting year," or similar term means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year;

(2) *[Repealed, § 67 ch 106 SLA 1986, effective January 1, 1988.]*

(3) *[Repealed, § 67 ch 106 SLA 1986, effective January 1, 1988.]*

(4) "state agency," "agency," "department," or similar term means a department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government, and includes the Alaska Pioneers' Home and the University of Alaska. (§ 3 art I ch 82 SLA 1955; am § 1 ch 186 SLA 1957; am § 2 ch 92 SLA 1975; am § 6 ch 46 SLA 1977; am § 67 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective January 1, 1988, repealed paragraphs (2) and (3), which defined "handicapped individual" and "sheltered workshop," respectively. For the provisions of these paragraphs effective until January 1, 1988, see the main pamphlet.

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Chapter 14. Trust Funds.

Article 2. Public School Fund.

Section	Section
110. Public school fund established	130. Powers and duties of board
120. Public School Fund Advisory Board created	140. Fund utilization
	150. Contributions

Sec. 37.14.110. Public school fund established. (a) There is established as a separate fund the public school fund.

(b) The principal of the fund established in (a) of this section consists of

(1) the balance of the public school permanent fund on July 1, 1978; and

(2) sums transferred under AS 37.14.150.

(c) The income of the fund created in (a) of this section consists of the interest and dividends earned from investments of the principal of that fund under AS 37.14.170. (§ 4 ch 182 SLA 1978)

Sec. 37.14.120. Public School Fund Advisory Board created.

(a) There is created in the Department of Revenue the Public School Fund Advisory Board composed of the commissioner of the Department of Education, three members elected by the Board of Education from among its membership, and the commissioner of the Department of Revenue.

(b) The board created in (a) of this section shall elect a chairman from the membership of the board. Members serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards. (§ 4 ch 182 SLA 1978)

Sec. 37.14.130. Powers and duties of board. The board created in AS 37.14.120 has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the principal and income of the fund established in AS 37.14.110; and

(3) to prepare long-range investment plans for the fund established in AS 37.14.110. (§ 4 ch 182 SLA 1978)

Sec. 37.14.140. Fund utilization. The principal of the fund established in AS 37.14.110 shall be retained in the fund for investment as specified in AS 37.14.170. The income of the fund may not be appropriated for a purpose other than for the support of public education programs. (§ 4 ch 182 SLA 1978)

Sec. 37.14.150. Contributions. During each fiscal year the commissioner of the Department of Revenue shall transfer to the fund

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created in AS 37.14.110 a sum equal to one-half of one per cent of the total receipts derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses. (§ 4 ch 182 SLA 1978)

Article 3. Custody and Investment of Trust Funds.

Section

160. Duties of commissioner of revenue

170. Investments

Sec. 37.14.160. Duties of commissioner of revenue. The commissioner of revenue is the treasurer of the funds created in AS 37.14.010 and 37.14.110 and shall

- (1) act as official custodian of the cash and securities belonging to those funds and provide adequate safe deposit facilities for each of them;
- (2) receive cash belonging to those funds;
- (3) collect the principal on securities acquired for each fund established under AS 37.14.010 and 37.14.110 and credit each fund accordingly;
- (4) collect interest and dividends earned on investments of the funds established under AS 37.14.010 and 37.14.110 and credit the income reserve account of each fund accordingly;
- (5) invest and reinvest the principal of each fund in accordance with AS 37.14.170. (§ 4 ch 182 SLA 1978)

Sec. 37.14.170. Investments. (a) The commissioner of revenue, with the approval of each advisory board created in AS 37.14.020 and 37.14.120, may invest the principal of the funds created in AS 37.14.010 and 37.14.110 in the same manner as specified for the investment of surplus pension funds under AS 39.35.110.

- (b) The commissioner of revenue may
- (1) invest and reinvest the principal of the funds;
 - (2) sell, exchange, convey, transfer, or otherwise dispose of investments of the funds by private contract or at public auction;
 - (3) vote upon a stock, bond, or other security; give a general or special proxy or power of attorney with or without power of substitution; exercise a conversion privilege, subscription right, or other option and make payments incidental to it; consent to or participate in a corporate reorganization or other change affecting corporate securities, delegate discretionary power, pay an assessment or charge in connection with the delegation; and generally exercise any of the powers

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of an owner with respect to stocks, bonds, securities, or other investments held in the funds;

(4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;

(5) register investments held in a fund in the name of the board having the power to approve investments for a fund;

(6) do all acts whether or not expressly authorized which are considered proper for the protection of the investments held in the funds.
(§ 4 ch 182 SLA 1978)

Title 39. Public Officers and Employees.

Chapter 05. Qualifications, Appointment, and Tenure.

Sec. 39.05.065. Qualifications of members of the Board of Education. (a) Each member of the Board of Education shall be a citizen of the United States and have been a resident of Alaska for at least three years.

(b) A member of the Board of Education may also be a member of a district school board. (§ 11 ch 96 SLA 1967; am § 19 ch 26 SLA 1980)

Cross references. — For appointment of members of Board of Education, see AS 14.07.085; for a description of districts of the state public school system, see AS 14.12.010.

Chapter 25. State Personnel Act.

Article 2. Coverage of Personnel

Sec. 39.25.110. Exempt service. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 — 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area

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school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers, teachers in skill centers operated by the Department of Education, or in Mt. Edgecumbe School;

(11) the officers and employees of the following boards, commissions, and authorities:

(F) Alaska Commission on Postsecondary Education;

Chapter 50. Conflict of Interest.

Sec. 39.50.010. Findings and purpose. (a) It is declared by the people of the State of Alaska that the purposes of this chapter are:

(1) to discourage public officials from acting upon a private or business interest in the performance of a public duty;

(2) to assure that public officials in their official acts are free of the influence of undisclosed private or business interests;

(3) to develop public confidence in persons seeking or holding public office, enhance the dignity of the offices and make them attractive to citizens who are motivated to public service; and

(4) to develop accountability in government by permitting public access to information necessary to judge the credentials and performance of those who seek and hold public office.

(b) The people of the State of Alaska declare that:

(1) public office is a public trust that should be free from the danger of conflict of interest;

(2) the public has a right to know of the financial and business interests of persons who seek or hold public office;

(3) a compelling state interest requires that candidates for office and office holders disclose their personal and business financial interests;

(4) reasonable disclosure requirements do not violate an individual's right to privacy when the individual seeks or holds public office and a compelling state interest in the disclosure exists; and

(5) reasonable disclosure requirements do not have the effect of chilling the exercise of the right of a qualified person to seek or hold public office. (1974 Initiative Proposal No. 2, § 1)

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NOTES TO DECISIONS

Purposes of Alaska's Conflict of Interest law as set forth in this section have been generally regarded as legitimate goals. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

The purpose of the Conflict of Interest statute is to bring to light all conflicts — actual and potential. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Financial disclosure laws have the purpose of promoting efficient, ethical government and preserving the integrity and fairness of the political process both in fact and in appearance. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Governmental interest balanced against individual's privacy interest. — The extent to which the governmental

interest in promoting fair and honest government would be impeded by not strictly complying with the Conflict of Interest law does not outweigh the individual's privacy interest in protecting sensitive personal information from public disclosure. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Reporting names of physician's patients. — Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require reporting the names of individual patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Cited in *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Collateral references. — 63A Am. Jur. 2d, Public Officers and Employees, §§ 335 — 337, 368, 411.
67 C.J.S., Officers, § 204.

Sec. 39.50.020. Report of financial and business interests.

(a) A judicial officer, commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, a person appointed as assistant to the governor, and a municipal officer, shall file a statement giving income sources and business interests, under oath and on penalty of perjury, within 30 days after taking office as a public official. Candidates for state elective office shall file such a statement at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that a previously accepted filing fee be returned and the candidate's name removed from the filing records. A statement shall also be filed by public officials no later than April 15 or 15 days after the person

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files a federal income tax return in each following year, whichever comes first. Persons who, on or after December 11, 1974, were members of boards or commissions not named in AS 39.50.200(b) are not required to file financial statements.

(b) The governor, lieutenant governor, members of the legislature, and candidates for these offices, judicial officers, each commissioner, head or deputy head of, or director of a division within, a department in the executive branch, assistant to the governor or chairman or member of a commission or board required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records. (1974 Initiative Proposal No. 2, § 1; am §§ 1, 2 ch 25 SLA 1975)

Opinions of attorney general. — A candidate for municipal office may amend an erroneous conflict-of-interest statement prior to an election, without having his name removed from the ballot, where

the candidate appears to have timely filed a statement in good faith with the proper election official. September 9, 1985 Op. Att'y Gen.

Sec. 39.50.145. Participation by municipalities. A municipality may exempt its municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election, vote to exempt its municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative election. (§ 16 ch 25 SLA 1975; am § 1 ch 211 SLA 1975; am § 62 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment in the first sentence substituted "a" for "any" preceding "regular election" and "AS 29.71.800(20)" for "AS

29.78.010(14)" and at the end of the section substituted "election" for "ordinance."

Sec. 39.50.150. Initial filing date for public officials. [Repealed, § 60 ch 21 SLA 1985.]

Sec. 39.50.200. Definitions. (a) In this chapter

(1) "assistant to the governor" includes any executive, legislative, special, administrative or press assistant to the governor, and any person similarly employed.

(2) "child" includes a biological child, an adoptive child, and a step-child;

(3) "commission" means the Alaska Public Offices Commission cre-

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ated under AS 15.13.020(a);

(4) "instrumentality of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska and the Alaska State Building Authority;

(5) "judicial officer" means a person appointed as a justice to the supreme court or as a judge to the court of appeals, superior court, district court, or magistrate court;

(6) "mother or father" includes a biological parent, an adoptive parent, and a step-parent;

(7) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, or a unified municipality;

(8) "public official" means a judicial officer, a member of the legislature, the fiscal analyst of the legislative finance division, the legislative auditor of the legislative audit division, the executive director of the Legislative Affairs Agency and the directors of the divisions within the Legislative Affairs Agency, the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division within, a department in the executive branch, and assistant to the governor, chairman or member of a state commission or board, and each appointed or elected municipal officer;

(9) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; but if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or children, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership or corporation, but if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source;

(b) In this chapter "state commission or board" means the

(1) Agricultural Revolving Loan Fund Board (AS 03.10.050);

(2) Alaska State Council on the Arts (AS 44.27.040);

(3) Alcoholic Beverage Control Board (AS 04.06.010);

(4) State Assessment Review Board (AS 43.56.040);

(5) [Repealed, § 1 ch 54 SLA 1981.]

(6) Board of Education (AS 14.07.075);

(7) Alaska Public Broadcasting Commission (AS 44.21.256);

(8) Alaska Public Offices Commission (AS 15.13.020);

(9) Employment Security Advisory Council (AS 23.20.025);

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- (10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);
- (11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);
- (12) Alaska State Building Authority (AS 18.55.020);
- (13) State Commission for Human Rights (AS 18.80.010);
- (14) *[Repealed, § 86 ch 59 SLA 1982.]*
- (15) Alaska Judicial Council (art. IV, § 8, Alaska Constitution);
- (16) Commission on Judicial Conduct (art. IV, § 10, Alaska Constitution);
- (17) Governor's Commission on the Administration of Justice (AS 44.19.110);
- (18) Local Boundary Commission (AS 44.47.565);
- (19) Occupational Safety and Health Review Board (AS 18.60.057);
- (20) Board of Parole (AS 33.16.020);
- (21) State Personnel Board (AS 39.25.060);
- (22) *[Repealed, § 20 ch 110 SLA 1981.]*
- (23) Public Employees Retirement Board (AS 39.35.030);
- (24) Alaska Public Utilities Commission (AS 42.05.010);
- (25) University of Alaska Board of Regents (AS 14.40.120);
- (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
- (27) *[Repealed, § 86 ch 59 SLA 1982.]*
- (28) *[Repealed, § 86 ch 59 SLA 1982.]*
- (29) Alaska Teachers' Retirement Board (AS 14.25.035);
- (30) *[Repealed, 1983 Initiative Proposal No. 2, § 6.]*
- (31) Workers' Compensation Board (AS 23.30.005);
- (32) Alaska Commission on Postsecondary Education (AS 14.42.015);
- (33) Alaska Municipal Bond Bank Authority (AS 44.85.020);
- (34) *[Repealed, § 1 ch 54 SLA 1981.]*
- (35) Alaska Medical Facility Authority (AS 18.26);
- (36) Alaska Oil and Gas Conservation Commission (AS 31.05);
- (37) Alaska Housing Finance Corporation (AS 18.56.010 — 18.56.900);
- (38) Alaska Coastal Policy Council members and their alternates (AS 44.19.155);
- (39) *[Repealed, § 1 ch 75 SLA 1979.]*
- (40) Board of Fisheries (AS 16.05.221(a));
- (41) Board of Game (AS 16.05.221(b));
- (42) Board of Trustees and executive director of the Alaska Permanent Fund Corporation (AS 37.13.040);
- (43) *[Repealed, § 69 ch 14 SLA 1987.]*
- (44) Alaska Seafood Marketing Institute (AS 16.51.010);
- (45) Council on Domestic Violence and Sexual Assault (18.66.010);
- (46) Alaska Power Authority public directors (AS 44.83.030);

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(47) Alaska Resources Corporation (AS 37.12.010); and
(48) Guide Board (AS 08.54.010). (1974 Initiative Proposal No. 2,
§ 1; am §§ 18, 19 ch 25 SLA 1975; am § 3 ch 79 SLA 1975; am § 2 ch
170 SLA 1975; am § 18 ch 263 SLA 1976; am § 2 ch 67 SLA 1977; am
§ 2 ch 141 SLA 1978; am § 2 ch 158 SLA 1978; am § 9 ch 167 SLA
1978; am § 2 ch 66 SLA 1979; am § 3 ch 75 SLA 1979; am § 37 ch 3

Title 41. Public Resources.

Chapter 15. Forests.

Article 5. Miscellaneous Provisions.

Section

900. Observance of Arbor Day

Collateral references. — 52 Am. Jur. 98 C.J.S., Woods and Forests, § 1 et seq.
2d, Logs and Timber, §§ 64, 65.

Sec. 41.15.900. Observance of Arbor Day. To increase public awareness of the vital importance of the conservation and propagation of trees and forests to the everyday life of the citizens of Alaska, the third Monday in May of each year is designated "Arbor Day." It shall be observed by appropriate school assemblies and programs and shall be the occasion for other suitable observances and exercises by civic groups and the public in general. (§ 1 ch 11 SLA 1966; am § 1 ch 15 SLA 1973)

Revisor's notes. — Formerly AS
41.15.400. Renumbered in 1983.

Title 43. Revenue and Taxation.

Chapter 50. Tobacco Tax.

Article 1. Cigarette Tax.

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Sec. 43.50.140. Disposition of proceeds. The proceeds derived from the payment of taxes, fees, and penalties, provided for under AS 43.50.010 — 43.50.180, and the license fees received by the department shall be paid into a state fund entitled "School Fund," and shall be used exclusively to rehabilitate, construct, and repair the state's school facilities, and for costs of insurance on buildings comprising school facilities during the rehabilitation, construction, and repair, and for the life of the buildings. (§ 16 ch 187 SLA 1955)

Opinions of attorney general. — In order to insure that tobacco tax funds are used most effectively in being a part of major rehabilitation, construction and major repair projects, the law requires that expenditures from such funds be made only after study and concurrence by the city school board, the city council, and the commissioner of education (now Department of Education). 1962 Op. Att'y Gen., No. 24.

It is necessary for the city council to concur by resolution in any expenditure of tobacco tax funds. 1962 Op. Att'y Gen., No. 24.

In addition to the approval of the city council, any disbursement of tobacco tax funds must be made with the authorization of the local school board. 1962 Op. Att'y Gen., No. 24.

NOTES TO DECISIONS

Distribution to particular recipients not required. — There is no express requirement in this section that school fund proceeds be distributed to any particular recipient and, in the view of the Alaska

Supreme Court, there are no grounds for implying such a requirement. *Southwest Region School Dist. v. Department of Educ., Sup. Ct. Op. No. 3099 (File No. S-1030), P.2d (1986).*

Title 44. State Government.

Chapter 27. Department of Education.

Article

1. Board and Department of Education (§ 44.27.020)
2. Alaska State Council on the Arts (§ 44.27.050)

Article 1. Board and Department of Education.

Section

20. Duties of Department

Sec. 44.27.020. Duties of Department. The Department of Education shall

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, and adult basic education, but not including degree programs of postsecondary education;

(2) administer the historical library;

(3) plan, finance and operate related school and educational activities and facilities. (§ 11 ch 64 SLA 1959; am § 77 ch 69 SLA 1970; am § 5 ch 86 SLA 1979; am E.O. No. 62, § 3 (1986))

Effect of amendments. — The 1986 amendment deleted "and fire-service training" following "adult basic education" in paragraph (1).

COMPILED SCHOOL LAWS OF ALASKA
Article 2. Alaska State Council on the Arts.

Section

- 50. Duties of council
- 52. Powers of council

Sec. 44.27.050. Duties of council. The duties of the council are

(1) to stimulate and encourage throughout the state the study and presentation of the performing, visual, and fine arts and public interest and participation;

(2) to make surveys, which are considered advisable, of public and private institutions engaged in the state in artistic and cultural activities, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) to take steps necessary and appropriate to encourage public interest in the cultural heritage of the state and to expend the state's cultural resources;

(4) to encourage and assist freedom of artistic expression essential for the well being of the arts;

(5) *[Repealed, § 2 ch 97 SLA 1986.]*

(6) to manage the art in public places fund. (E.O. No. 44, § 4 (1980); am § 7 ch 176 SLA 1980; am § 2 ch 97 SLA 1986)

Effect of amendments. — The 1986 amendment repealed paragraph (5), concerning recommendation of appointment to the Advisory Council on Cultural Facilities.

Sec. 44.27.052. Powers of council. The council may (1) hold public and private hearings; (2) enter into contracts, within the limit of funds available, with individuals, organizations, and institutions for services furthering the educational objectives of the council's programs; (3) enter into contracts, within the limit of funds available, with local and regional associations for cooperative endeavors furthering the educational objectives of the council's programs; (4) accept gifts, contributions, and bequests of unrestricted funds from individuals, foundations, corporations, and other organizations or institutions for the purpose of furthering the educational objectives of the council's programs; and (5) make and sign agreements and to do and perform any acts necessary to carry out the purposes of AS 44.27.040 — 44.27.060. The council may request and is entitled to receive from any department, division, board, bureau, commission, or agency of the state the assistance and data that will enable it properly to carry out its powers and duties. The council is authorized to receive state funds made available for its purposes. (E.O. No. 44, § 4 (1980); am § 39 ch 85 SLA 1988)

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Effect of amendments. — The 1988 amendment, effective June 2, 1988, made a minor stylistic change in the second sentence and, in the first sentence, substituted "may (1)" for "is authorized and empowered to" and "AS 44.27.040 — 44.27.060" for "AS 44.27.040 — 44.27.058," and inserted paragraph designations "(2)"-(5)."

Chapter 62. Administrative Procedure Act.

Article 6. Agency Meetings Public.

Section

310. Agency meetings public

312. State policy regarding meetings

Sec. 44.62.310. Agency meetings public. (a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. Except for meetings of a house of the legislature, attendance and participation at meetings by members of the public or by members of a body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a public body described in this subsection.

(b) If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

(c) The following excepted subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

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(3) matters which by law, municipal charter, or ordinance are required to be confidential.

(d) This section does not apply to

(1) judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff; or

(5) meetings of the governing body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting, and if the meeting is by teleconference the location of any teleconferencing facilities that will be used.

(f) Action taken contrary to this section is void. (§ 1 art VI (ch 1) ch 143 SLA 1959; am § 1 ch 48 SLA 1966; am § 1 ch 78 SLA 1968; am § 1 ch 7 SLA 1969; am §§ 1, 2 ch 98 SLA 1972; am § 2 ch 100 SLA 1972; am § 1 ch 189 SLA 1976; am §§ 2, 3 ch 54 SLA 1985)

Effect of amendments. — The 1985 amendment in subsection (a) added the second, third, and next-to-last sentences and in the last sentence substituted "a

public body described" for "the bodies specified" and added the last sentence of subsection (e).

NOTES TO DECISIONS

"Meeting". — A private meeting between a quorum of the Anchorage Municipal Assembly and a developer to discuss in detail the developer's application for rezoning violated this section; a "meeting" for purposes of the Open Meetings Act includes every step of the deliberative and decision-making process when a governmental unit meets to transact public business. The rezoning ordinance later passed by the assembly that allowed a modified plan of development was therefore held void. *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, Sup. Ct. Op. No. 2953 (File Nos. S-575, S-629), 702 P.2d 1317 (1985).

Findings. — There is nothing in the Administrative Procedure Act requiring a board to make any findings when exercising its quasi-legislative function, and therefore there is nothing in the act regulating the manner in which findings must be adopted or approved. *State v. Hebert*, Ct. App. Op. No. 748 (File A-1743), P.2d (1987).

Legislature's alleged violation of Open Meetings Act held nonjusticiable. — The Open Meetings Act, as it applies to the legislature, like the legislature's Uniform Rule 22, merely establishes a rule of procedure concerning how the legislature has decided to conduct its business; a failure to follow a rule of procedure is not the subject matter of judicial inquiry where there are no allegations that the legislature, acting pursuant to or in violation of one of its rules of procedure, has infringed on the rights of a third person not a member of a legislature or has ignored constitutional restraints or violated fundamental rights. *Aboud v. League of Women Voters*, Sup. Ct. Op. No. 3230 (File Nos. S-1831, S-1841, S-1957), 743 P.2d 333 (1987).

Applied in *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984); *Aboud v. Gorsuch*, Sup. Ct. Op. No. 2958 (File No. S-706), 703 P.2d 1158 (1985).

Sec. 44.62.312. State policy regarding meetings. (a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

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(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies which serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c)(1) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and avoid unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985)

Effect of amendments. — The 1985 amendment added paragraph (6) of subsection (a).

NOTES TO DECISIONS

Quoted in Brookwood Area Home- age, Sup. Ct. Op. No. 2953 (File Nos. owners Ass'n v. Municipality of Anchor- S-575, S-629), 702 P.2d 1317 (1985).

Article 8. Administrative Adjudication.

Section	Section
330. Application of AS 44.62.330 — 44.62.630	410. Time and place of hearing 600. Voting procedure

Sec. 44.62.330. Application of AS 44.62.330 — 44.62.630.

(a) The procedure of the state boards, commissions, and officers listed in this subsection or of their successors by reorganization under the constitution shall be conducted under AS 44.62.330 — 44.62.630. This procedure, including, but not limited to, accusations and statements of issues, service, notice and time and place of hearing, subpoenas, depositions, matters concerning evidence and decisions, conduct of hearing, judicial review and scope of judicial review, continuances, reconsideration, reinstatement or reduction of penalty, contempt, mail vote, oaths, impartiality, and similar matters shall be governed by this chapter, notwithstanding similar provisions in the statutes dealing with the state boards, commissions, and officers listed. Where indicated, the procedure that shall be conducted under AS 44.62.330 — 44.62.630 is limited to named functions of the agency.

(42) the Department of Education and the Professional Teaching

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Practices Commission with regard to proceedings to revoke or suspend a teacher's certificate under AS 14.20.030 — 14.20.040 and AS 14.20.470(a)(4)

(43) Alaska Commission on Postsecondary Education under AS 14.48 as to denial of applications and revocation of authorizations and permits

(45) University of Alaska, except to the extent that its inclusion is inconsistent with the provisions of AS 14.40

(53) Department of Commerce and Economic Development concerning the licensing and regulation of audiologists (AS 08.11);

Title 47. Welfare, Social Services and Institutions.

Chapter 17. Child Protection.

Section	Section
10. Purpose	50. Immunity
20. Persons required to report	60. Evidence not privileged
22. Training	64. Photographs and x-rays
23. Reports regarding child pornography	68. Penalty for failure to report
25. Duties of public authorities	70. Definitions
30. Action on reports; termination of parental rights	
40. Central registry; confidentiality	

Sec. 47.17.010. Purpose. In order to protect children whose health and well-being may be adversely affected through the infliction, by

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other than accidental means, of harm through physical abuse or neglect or sexual abuse or sexual exploitation, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of the children in this state, and to preserve family life whenever possible. (§ 1 ch 100 SLA 1971; am § 3 ch 104 SLA 1982)

Effect of amendments. — The 1982 amendment, in the first sentence, substituted "neglect or sexual abuse or sexual exploitation" for "neglect requiring the attention of a practitioner of the healing arts" and inserted "of the healing arts"

NOTES TO DECISIONS

Use of reports. — The reports of child abuse and neglect required by this section are intended for use in child protection proceedings and are not intended for use in

criminal proceedings. *State v. R.H.*, Ct. App. Op. No. 375 (File No. 7768), P 2d (1984). See also notes to AS 47.17.060, under catchline "Judicial proceeding."

Collateral references. — 42 Am. Jur. 2d, Infants, §§ 16, 17.
43 C.J.S., Infants, §§ 36 to 39, 70 to 75, 94.

Medical attention, criminal neglect by failure to provide, 12 ALR2d 1047.

Liability of parent for injury to unemancipated child caused by parent's negligence, 41 ALR3d 904.

Validity and construction of penal statute prohibiting child abuse, 1 ALR4th 38.

Sec. 47.17.020. Persons required to report. (a) The following persons who, in the performance of their occupational duties, have cause to believe that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members of public and private schools;
- (3) social workers;
- (4) peace officers, and officers of the Department of Corrections;
- (5) administrative officers of institutions;
- (6) child care providers;
- (7) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.900.

(b) This section does not prohibit the named persons from reporting cases that have come to their attention in their nonoccupational capacities, nor does it prohibit any other person from reporting a child's

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harm that the person has cause to believe is a result of child abuse or neglect. These reports shall be made to the nearest office of the department.

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

(d) This section does not require a religious healing practitioner to report as neglect of a child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

(e) A person listed in (a) of this section, who in the performance of the person's occupational duties has cause to believe that a child has suffered harm as a result of abuse, shall promptly report the harm to the nearest law enforcement agency if the person making the report (1) has cause to believe that the harm was caused by a person who is not responsible for the child's welfare; or (2) is unable to determine (A) who caused the harm to the child; or (B) whether the person who is believed to have caused the harm has responsibility for the child's welfare. If a person making a report under this subsection cannot reasonably contact the nearest law enforcement agency, and immediate action appears necessary for the well-being of the child, the person shall make the report to the nearest office of the department. The department shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest law enforcement agency. In this subsection, "abuse" means the physical injury, sexual abuse, sexual exploitation, or maltreatment of a child by any person under circumstances that indicate that the child's health or welfare is harmed or threatened. (§ 1 ch 100 SLA 1971; am §§ 4, 5 ch 104 SLA 1982; am E.O. No. 55, § 42 (1984); am §§ 8 — 10 ch 39 SLA 1985; am § 2 ch 114 SLA 1986)

Effect of amendments. — The 1985 amendment rewrote subsections (a) and (b) and added subsection (d). The 1986 amendment added subsection (e).

Sec. 47.17.022. Training. (a) A person employed by the state who is required under this chapter to report abuse or neglect of children shall receive training on the recognition and reporting of child abuse and neglect.

(b) Each department of the state that employs persons required to report abuse or neglect of children shall provide

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(1) initial training required by this section to each new employee during the employee's first six months of employment, and to any existing employee who has not received equivalent training; and

(2) appropriate in-service training required by this section as determined by the department.

(c) Each department that must comply with (b) of this section shall develop a training curriculum that acquaints its employees with

(1) laws relating to child abuse and neglect;

(2) techniques for recognition and detection of child abuse and neglect;

(3) agencies and organizations within the state that offer aid or shelter to victims and the families of victims of child abuse or neglect; and

(4) procedures for required notification of suspected abuse or neglect.

(d) Each department that must comply with (b) of this section shall file a current copy of its training curriculum and materials, with the Council on Domestic Violence and Sexual Assault. A department may seek the technical assistance of the council or the Department of Health and Social Services in the development of its training program. (§ 1 ch 1 SLA 1986)

Sec. 47.17.023. Reports regarding child pornography. A person who, in the course of processing or producing visual or printed matter, either privately or commercially, has reason to believe that the matter visually depicts a child engaged in conduct described in AS 11.41.455(a) shall promptly report this to the nearest law enforcement agency, and provide the law enforcement agency with all information known about the nature and origin of the matter. (§ 11 ch 39 SLA 1985)

Sec. 47.17.050. Immunity. A person who, in good faith, makes a report under this chapter, or who participates in judicial proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability which might otherwise be incurred or imposed. (§ 1 ch 100 SLA 1971)

Sec. 47.17.068. Penalty for failure to report. A person who knowingly fails or refuses to report as required under AS 47.17.020 or 47.17.023 is guilty of a class B misdemeanor. (§ 7 ch 104 SLA 1982; am § 13 ch 39 SLA 1985)

Sec. 47.17.070. Definitions. In this chapter

(1) "child" means a person under 18 years of age;

(2) "child abuse or neglect" means the physical injury or neglect,

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sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

(3) "child care provider" means an adult individual, or an employee of an organization, who provides care and supervision to a child for compensation;

(4) "department" means the Department of Health and Social Services;

(5) "institution" means a private or public hospital or other facility providing medical diagnosis, treatment, or care;

(6) "neglect" means the failure to provide necessary food, care, clothing, shelter, or medical attention for a child;

(7) "organization" means a group or entity that provides care and supervision for compensation to a child not related to the caregiver, and includes a child care facility, pre-elementary school, head start center, child foster home, residential child care facility, recreation program, children's camp, and children's club;

(8) "person responsible for the child's welfare" means the child's parent, guardian, foster parent, a person responsible for the child's care at the time of the alleged child abuse or neglect, or a person responsible for the child's welfare in a public or private residential agency or institution;

(9) "practitioner of the healing arts" includes chiropractors, dental hygienists, dentists, health aides, nurses, nurse practitioners, occupational therapists, occupational therapy assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, audiologists licensed under AS 08.11, hearing aid dealers licensed under AS 08.55, religious healing practitioners, and surgeons;

(10) "sexual exploitation" includes

(A) allowing, permitting, or encouraging a child to engage in prostitution prohibited by AS 11.66.100 — 11.66.150, by a person responsible for the child's welfare;

(B) allowing, permitting, encouraging, or engaging in activity prohibited by AS 11.41.455(a), by a person responsible for the child's welfare. (§ 1 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 3 ch 222 SLA 1976; am §§ 56, 57 ch 94 SLA 1980; am §§ 8, 9 ch 104 SLA 1982; am §§ 15, 16 ch 39 SLA 1985; am § 8 ch 56 SLA 1986; am § 3 ch 114 SLA 1986; am § 14 ch 131 SLA 1986; am § 31 ch 2 FSSLA 1987)

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Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms.

Effect of amendments. — The 1985 amendment rewrote paragraph (9) and added paragraphs (3), (7), and (8).

The first 1986 amendment in paragraph (9) inserted "naturopaths."

The second 1986 amendment rewrote paragraph (10).

The third 1986 amendment inserted "audiologists licensed under AS 08.11, hearing aid dealers licensed under AS 08.55," near the end of paragraph (9).

The 1987 amendment, effective January 1, 1988, in paragraph (9) inserted "occupational therapists, occupational therapy assistants" and "physical therapy assistants."

Chapter 20. Exceptional Children.

Section

05. Purpose

10. Assistance authorized

Section

20. Standards for assistance

50. Definitions

Sec. 47.20.005. Purpose. It is the purpose of AS 47.20.005 — 47.20.050 to provide appropriate public education and training for the exceptional children in this state who have not reached the age of three. To the maximum extent possible, the department shall establish a learning program which emphasizes individual needs, is home based, and involves parents in the education and training of their children. (§ 1 ch 77 SLA 1978)

Sec. 47.20.010. Assistance authorized. (a) The department shall provide professional guidance and financial assistance to organized groups of parents, nonprofit corporations, school districts, and regional educational attendance areas according to regulations adopted by the department for providing special services, evaluation, and special training required by exceptional children.

(b) The program established under (a) of this section shall emphasize individual needs and, where possible, be home based and involve parents in the education and training of their children. (§ 2 ch 118 SLA 1961; am § 6 ch 104 SLA 1971; am § 2 ch 77 SLA 1978)

Sec. 47.20.020. Standards for assistance. The department shall assist organized parental groups, school districts, regional educational attendance areas, and nonprofit corporations which have requested assistance and have arranged for the necessary facilities and equipment for training centers for exceptional children. (§ 3 ch 118 SLA 1961; am § 3 ch 77 SLA 1978)

Secs. 47.20.030 — 47.20.040. Appropriations; purpose. [Repealed, § 6 ch 77 SLA 1978.]

Sec. 47.20.050. Definitions. In this chapter

(1) "department" means the Department of Health and Social Services;

(2) "evaluation" means the physical and mental examinations necessary to determine the extent of the handicap;

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(3) "exceptional children" includes those children who have not reached age of three and whose development is significantly delayed due to mental retardation, physical, neurological, or emotional handicaps;

(4) "professional guidance" means the consultative services or other medical and educational specialists developed by the department for the education and training of exceptional children;

(5) "special service" means evaluation and special training;

(6) "special training" means (A) nursery or pre-school training to compensate for the special handicaps of exceptional children in order to prepare them, when possible, for admission to special classes in a regular school at the age determined by law, or (B) training in self-help skills, safety, social and simple occupational skills for trainable mentally retarded children of school age who are incapable of academic subjects. (§ 5 ch 118 SLA 1961; am §§ 4—6 ch 77 SLA 1978)

Revisor's notes. — Reorganized in 1984 to alphabetize the terms defined.

Chapter 21. Adventure-Based Education.

Section

10. Establishment

20. Program

Editor's notes. — For legislative findings, see § 3, ch. 86, SLA 1979, in the 1979 Temporary and Special Acts.

Sec. 47.21.010. Establishment. (a) The Department of Community and Regional Affairs shall establish an adventure-based education program designed to bring adventure-based education to appropriate juvenile offenders and others selected by referral agencies.

(b) Adventure-based education is a short-term, intensive training program designed to remedy failure patterns and encourage development of self-esteem, self-confidence, and social awareness in

(1) certain delinquent juveniles in the custody of the Department of Health and Social Services;

(2) certain juveniles identified by the schools, division of social services, the courts, youth workers, or other community referral systems, as being able to benefit from adventure-based education. (§ 4 ch 86 SLA 1979; am E.O. No. 55, § 43 (1984))

Cross references. — See also AS 14.30.500 for description of adventure-based education.

Effect of amendments. — The 1984

amendment substituted "Department of Health and Social Services" for "division of corrections" in paragraph (1) of subsection (b).

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Sec. 47.21.020. Program. (a) An adventure-based education program shall include provisions for the following phases:

(1) Phase I: Basic Skills Learning

(A) physical conditioning: running, hiking, swimming, and other related activities;

(B) technical training: the use of specialized tools and equipment, camping, cooking, map reading, navigation, life saving, drown proofing, and solo survival;

(C) safety training: first aid skills, emergency care, preventative medicine, nutrition, health and personal hygiene care;

(D) team training: rescue techniques, evacuation exercises, and fire fighting;

(E) solo: solitary living for a short period with minimal equipment;

(F) interpersonal skills training: coping skills, individual and group problem solving, and societal communication skills;

(G) culturally relevant activities: traditional modes of subsistence living, travelling and surviving in wilderness areas and communities in Alaska, and cross-cultural experiences.

(2) Phase II: Skills Generalization

(A) vocational counseling and placement;

(B) family and interpersonal counseling;

(C) community systems utilization:

(i) transportation,

(ii) community services systems,

(iii) community problem solving.

(b) Criteria for adventure-based education programs shall be established by the Department of Community and Regional Affairs and shall include provisions for

(1) staff members with background experience in Outward Bound, NOLS, Alaska Wilderness Experience, Inc., or other similar wilderness skills programs or indigenous cultural experience;

(2) minimum program standards. (§ 4 ch 86 SLA 1979)

Chapter 80. Persons with Handicaps.

Article

1. Rights (§§ 47.80.010 — 47.80.020)

2. Governor's Council for the Handicapped and Gifted (§§ 47.80.030 — 47.80.090)

3. Programs and Plans (§§ 47.80.100 — 47.80.170)

4. General Provisions (§ 47.80.900)

Editor's notes. — For the intent of this chapter, see § 1, ch. 165, SLA 1978 in the Temporary and Special Acts.

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NOTES TO DECISIONS

Purpose of chapter. — The purpose of AS 47.80.010 through 47.80.900 is to provide affirmative services to the handicapped. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

Minimal institutionalization a goal. — A fundamental goal of AS 47.80.010 through 47.80.900 is to minimize institutionalization in the habilitation of handicapped individuals. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981). See AS 47.80.110.

No authority to involuntarily commit

the handicapped. — The statutory scheme of AS 47.80.010 through 47.80.900 does not give the courts authority to involuntarily commit the handicapped. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

AS 47.80.010 through 47.80.900 contains no implicit authority for the involuntary commitment of those handicapped individuals who fall within its scope. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

Article 1. Rights.

Section

- 10. Rights of persons with handicaps
- 20. Protection and advocacy of rights

Sec. 47.80.010. Rights of persons with handicaps. Persons with handicaps have the same legal rights and responsibilities guaranteed all other persons by the Constitution of the United States and federal laws and by the constitution and laws of the state. No otherwise qualified person by reason of having a handicap may be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity which receives public funds. Some persons with handicaps may be unable, due to the severity of their handicap, to exercise for themselves all of their rights in a meaningful way; for others modification of some or all of their rights is appropriate. The procedure used for modification of rights shall contain proper legal safeguards against every form of abuse, shall be based on an evaluation of the social capability of the person by qualified experts, and shall be subject to periodic reviews and to the right of appeal to higher authorities. (§ 2 ch 165 SLA 1978)

NOTES TO DECISIONS

Quoted in In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981)

Sec. 47.80.020. Protection and advocacy of rights. The department shall establish a system to protect and advocate rights of persons with handicaps. The system

- (1) has the authority to pursue legal, administrative, and other

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appropriate remedies to assure the protection of the rights of persons with handicaps; and

(2) shall be independent of any state agency which provides treatment, services, or habilitation of persons with handicaps. (§ 2 ch 165 SLA 1978)

NOTES TO DECISIONS

This section was enacted in response to a federal statute, 42 U.S.C. § 6012(a), providing for joint federal and state protection and advocacy of the rights of developmentally disabled individuals. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

No authority to involuntarily commit

the handicapped. — This section should not be read so broadly so as to create the implied authority to involuntarily commit the handicapped. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981). See also notes under same catchline following chapter analysis, Notes to Decisions.

Article 2. Governor's Council for the Handicapped and Gifted.

Section

- 30. Governor's council for the handicapped and gifted
- 40. Composition
- 50. Term of office

Section

- 60. Compensation, per diem, and expenses
- 70. Officers and staff
- 80. Bylaws
- 90. Responsibilities

Sec. 47.80.030. Governor's council for the handicapped and gifted. There is established the Governor's Council for the Handicapped and Gifted. For budgetary purposes, the council is located within the Department of Health and Social Services but is the interdepartmental planning and coordinating agency of the Department of Health and Social Services, the Department of Education, and other departments which deliver services to persons who are handicapped or gifted. In addition, the council is the state planning council for purposes of federal laws relating to the handicapped or gifted. (§ 2 ch 165 SLA 1978)

Sec. 47.80.040. Composition. (a) The council consists of no fewer than 18 nor more than 23 members appointed by the governor in accordance with P.L. 91-517, P.L. 94-103, P.L. 94-142, as amended, and AS 14.30.231.

(b) At least one-third of the members shall be representatives of the principal state agencies concerned with services for handicapped or gifted persons.

(c) At least one-third of the members shall be developmentally disabled persons or parents or guardians of such persons, who are not officers or directors of an entity, or employees of a state agency, which receives funds or provides services under P.L. 91-517 or P.L. 94-103, as amended.

(d) The remaining members shall be appointed to represent the public at large, local agencies, nongovernmental agencies, and groups con-

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cerned with services to handicapped or gifted persons.

(e) Membership of the council shall at all times comply with the requirements of P.L. 91-517, as amended.

(f) In the appointment of all members other than state agency members, due regard shall be given to geographically balanced representation of areas of the state and to representation of persons with a variety of different mental and physical handicaps. (§ 2 ch 165 SLA 1978)

Editor's notes. — P.L. 91-517 cited in this section may be found at 42 U.S.C. 2661 — 2666, 2670 — 2677, 2691 and 2693 — 2696. P.L. 94-103 cited in this section may be found at 42 U.S.C. 6001 — 6012, 6031 — 6033, 6041 — 6043, 6061 — 6068 and 6081. P.L. 94-142 cited in this section may be found at 20 U.S.C. 1401, 1405, 1406, 1411 — 1420 and 1453.

Sec. 47.80.050. Term of office. (a) Council members' terms are three years. Of the initial appointees, one-third shall be appointed for one-year terms, one-third for two-year terms, and one-third for three-year terms.

(b) A vacancy occurring in the membership of the council shall be filled by appointment of the governor for the unexpired portion of the vacated term.

(c) Council members serve at the pleasure of the governor, notwithstanding their terms of office.

(d) It is the legislative intent that the governor replace any member who, by poor attendance or lack of contribution to the council's work, demonstrates ineffectiveness as a council member. (§ 2 ch 165 SLA 1978)

Sec. 47.80.060. Compensation, per diem, and expenses. Members of the council receive no salary but are entitled to per diem and reimbursement for travel and other expenses as authorized by law for boards. (§ 2 ch 165 SLA 1978)

Sec. 47.80.070. Officers and staff. (a) The council, by a majority of its membership, shall elect a chairman and other officers it considers necessary from among its membership, to serve on a yearly basis.

(b) The department shall provide for the assignment of personnel to the council to ensure that the council has the capacity to fulfill its responsibilities. The personnel shall be directly responsible to the council for performance of their duties. (§ 2 ch 165 SLA 1978)

Sec. 47.80.080. Bylaws. The council, on approval of a majority of its membership, shall adopt and amend bylaws governing its composition, proceedings and other activities consistent with AS 47.80.030 — 47.80.090 and including, but not limited to, provisions concerning a quorum to transact council business and other aspects of procedure, frequency and location of meetings, and establishment, functions and membership of council committees. (§ 2 ch 165 SLA 1978)

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Sec. 47.80.090. Responsibilities. The council shall

- (1) serve as a forum by which issues and benefits regarding current and potential services to handicapped and gifted persons may be discussed by consumer, public, private, professional, and lay interests;
- (2) advocate the needs of handicapped and gifted persons before the executive and legislative branches of the state government and before the public;
- (3) advise the executive and legislative branches of the state government and the private sector on programs and policies pertaining to current and potential services to handicapped or gifted persons and their families;
- (4) submit periodic reports to the commissioner of health and social services, the commissioner of education and to other appropriate departments, on the effects of current federal and state programs regarding services to handicapped or gifted persons; these reports shall include program performance reports to the governor, the federal government, and to state agencies as required by P.L. 91-517, P.L. 94-103, or P.L. 94-142, as amended;
- (5) in conjunction with the Departments of Health and Social Services and Education, develop, prepare, adopt, periodically review, and revise as necessary an annual state plan prescribing programs which meet the needs of persons with developmental disabilities as required under P.L. 91-517 or P.L. 94-103, as amended;
- (6) review and comment to commissioners of state departments on all state plans and proposed regulations relating to programs for persons with handicaps before the adoption of a plan or regulation; for this purpose, the appropriate departments shall submit the plans and proposed regulations to the council;
- (7) recommend the priorities and specifications for the use of funds received by the state under P.L. 91-517, P.L. 94-103 and P.L. 94-142, as amended;
- (8) submit annually to the commissioner of health and social services, the commissioner of education, and the commissioner of community and regional affairs a proposed interdepartmental program budget for services to handicapped or gifted persons which includes, insofar as possible, projected revenues and expenditures for programs implemented by state agencies, local governmental agencies, and private organizations; the interdepartmental program budget is an informational supplement to the regular annual budgetary submissions of the departments to the Office of the Governor;
- (9) provide information and guidance for the development of appropriate special educational programs and services for exceptional children as defined in AS 14.30.350;
- (10) monitor and evaluate budgets or other implementation plans and programs for handicapped and gifted persons to assure nonduplication of services and encourage efficient and coordinated use

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of federal, state and private resources in the provision of services; members of the council, with the approval of the council, have access to information in the possession of state agencies subject to disclosure restrictions imposed by state or federal confidentiality or privacy laws;

(11) perform other duties required under P.L. 91-517, P.L. 94-103, P.L. 94-142, as amended, or AS 14.30.231, and as the governor may assign; and

(12) govern the special education service agency, and may hire personnel necessary to operate the agency. (§ 2 ch 165 SLA 1978; am § 6 ch 112 SLA 1986)

Effect of amendments. — The 1986 amendment added paragraph (12).

Article 3. Programs and Plans.

Section	Section
100. Programs for persons with handicaps	150. Liability for expense of services
110. Program principles	160. Transportation
120. Habilitation plans	170. Provision for personal needs upon discharge
130. Powers and duties of the department	
140. Licensing and certificates of need	

Sec. 47.80.100. Programs for persons with handicaps. (a) The Department of Health and Social Services, the Department of Education, and other departments of the state as appropriate, shall, in coordination, plan, develop, and implement a comprehensive system of services and facilities for persons with handicaps, which is consistent with the state plan adopted under AS 47.80.090(5) and is dispersed geographically within the state.

(b) The services required in (a) of this section are specialized services or special adaptations of services available to the general population and shall be directed toward the social, personal, physical, or economic habilitation or rehabilitation of persons with handicaps.

(c) Within the limits of appropriations and other available funds, the appropriate department may itself provide the services and establish, operate, and maintain the facilities required under (a) and (b) of this section, or it may provide the services or facilities entirely or in part through contractual arrangements with public or private agencies. (§ 2 ch 165 SLA 1978)

Sec. 47.80.110. Program principles. The system of services and facilities required under AS 47.80.100 shall accord with the principle that treatment, services, and habilitation shall be designed to maximize individual potential, minimize institutionalization, and shall be provided in the least restrictive setting, enabling a person to live as normally as possible within the limitations of the handicap. (§ 2 ch 165 SLA 1978)

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NOTES TO DECISIONS

Goal of minimal institutionalization. capped individuals. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P 2d 574 (1981).
— A fundamental goal of AS 47.80.010 through 47.80.900 is to minimize institutionalization in the habilitation of handi-

Sec. 47.80.120. Habilitation plans. A state agency, contractor, or grantee who is directly responsible for providing services to persons with handicaps shall develop an individual habilitation plan for each person whose program of services utilizes state funds. The plan shall be completed in writing and furnished to the department within 30 days of admission of a client to the program of services. The plan, its renewals, and any changes of it, shall have the written concurrence of the client, or the client's parent or guardian when appropriate, and the agency or contractor responsible for providing services. The development and content of a plan shall conform to requirements established by the department by regulation. Insofar as practicable, the requirements shall conform to those established for individual habilitation plans under P.L. 91-517 or P.L. 94-103, as amended. Each plan shall be time-limited, evaluated, and renewed at least annually. (§ 2 ch 165 SLA 1978)

Sec. 47.80.130. Powers and duties of the department. (a) The department shall

(1) develop budgets and receive and distribute appropriations and funds under this section;

(2) adopt regulations regarding standards of services and facilities for persons with handicaps and the quality of services and the process by which services are to be delivered;

(3) adopt any other regulations necessary to implement this chapter;

(4) provide technical assistance to public and private agencies in planning, developing, and implementing programs to serve handicapped persons;

(5) operate programs and facilities, and enter into agreements, contracts, or grants necessary to provide services required under this chapter;

(6) take the actions and undertake the obligations which are necessary to participate in federal grant-in-aid programs and accept federal or other financial aid for the study, examination, care and treatment of the handicapped.

(b) For purposes of P.L. 91-517 and P.L. 94-103, as amended, the department is designated the sole administering agency; it shall make applications for, receive, and expend grants under P.L. 91-517 or P.L. 94-103, as amended, and otherwise exercise the powers and perform the duties and functions necessary to comply with P.L. 91-517 and P.L. 94-103, as amended.

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(c) The Department of Education may make applications for, receive, and expend grants under P.L. 91-230 (The Education for the Handicapped Act), as amended, and otherwise exercise the powers and perform the functions necessary to comply with that Act. (§ 2 ch 165 SLA 1978)

Sec. 47.80.140. Licensing and certificates of need. (a) A person may not establish or operate a residential facility without first obtaining a license to do so. The department by regulation shall provide for licensing of residential facilities which are not within the licensing provisions of AS 18.20.010 — 18.20.130, AS 47.35.010 — 47.35.080 or other law requiring state licensing of such facilities. Regulations of the department shall include but need not be limited to (1) standards of operation promoting and protecting public health, safety, and welfare, and (2) procedures governing applications for and issuance of licenses and duration, renewal, and revocation of licenses for cause. The department may at reasonable times inspect and examine residential facilities licensed under this subsection for conformity with licensing requirements.

(b) A certificate of need is required as a prerequisite for licensing a residential facility established after July 1, 1978 and not otherwise provided for in AS 18.07.031 — 18.07.111. A certificate shall be issued and regulated in the same manner as provided in AS 18.07.031 — 18.07.111 for certificates of need for health care facilities. (§ 2 ch 165 SLA 1978)

Article 3. Programs and Plans.

Section

150. Liability for expense of services

Sec. 47.80.150. Liability for expense of services. (a) A person with a handicap or the person's legal representative acting in a representative capacity, the person's spouse, or the person's parents if the person is a minor, shall pay or contribute to the payment of the charges for the care or treatment in accordance with the fee schedule adopted under AS 44.29.022. The order of the department relating to the payment of charges shall be prospective in effect and may relate only to charges to be incurred, except that if a person intentionally conceals ability to pay, the person shall be ordered to pay to the extent of the person's ability to pay the charges accruing during the period of the concealment. The order of the department relating to the payment of charges by the person with a handicap or the person's legal representative, or the person's spouse or parents, shall be issued within six months of the date on which the charge was incurred. The department may make necessary investigations to determine the ability to pay.

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The order shall remain in full force and effect unless modified by subsequent court or department orders.

(b) As used in (a) of this section, the term "actual cost of the care and treatment" means the lesser of (1) the rate provided for by a contract entered into under this chapter, (2) the fee established under AS 44.29.022 for services provided under this chapter, or, (3) if the person is under the age of 18, the cost of care of a person of the same age who is not a person with a handicap and who resides with a parent or guardian, and includes expenses of transportation incidental to treatment and carrying out the intent of this chapter. In establishing fees for services under this chapter, the commissioner shall consider the income and family size of the responsible party, age of the person receiving the services, and other factors that relate to the ability to pay. Fees may not exceed the actual cost of the care or treatment.

(c) *[Repealed, § 101 ch 138 SLA 1986.]*

(d) The department may charge, or accept money or property from a person, for the care or treatment of an inpatient or outpatient or for other purposes, even if the payment is not required by an order of the department. The total payments received may not exceed the actual cost of care or treatment.

(e) All money paid to the department by the person with a handicap or on the person's behalf, under this section, shall be deposited in the general fund.

(f) If an order of payment is entered by the department under this section and delinquency in the payment of any amount due the state under the order continues for a period of more than 30 days after the notification by the department to the person, the legal representative, parent, or spouse of the person with a handicap, the state may proceed to collect the amounts due by appropriate proceedings. Actions to enforce the collection of payments may only be brought within three years after the date of notification of a delinquent payment.

(g) The commissioner of administration shall separately account for medical care and treatment fees collected under this section that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this chapter. (§ 2 ch 165 SLA 1978; am §§ 96 — 101 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (a), substituted "the person's parents if the person is a minor" for "parents" and "in accordance with the fee schedule adopted under AS 44.29.022" for "in the manner and proportion which the department finds is not detrimental to rehabilitation and which is within the responsible person's ability to pay. The charges may not exceed the ac-

tual cost of the care or treatment as determined by the department" in the first sentence substituted "may relate" for "shall relate" in the second sentence and made grammatical changes; in subsection (b), substituted "the lesser of (1)" for "either" and substituted items (2) and (3) for "in the absence of a contract, a daily rate fixed by the department" in the first sentence and added the last two sentences;

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repealed subsection (c); inserted "to the department" and substituted "general fund" for "state treasury" in subsection (e); inserted "the person" following "the notification by the department to" in subsection (f); and added subsection (g).

Sec. 47.80.160. Transportation. When an individual is to be treated under this chapter, the department shall arrange, upon the request of a person having a proper interest in the individual's treatment, and may pay for the individual's transportation to the designated facility, with appropriate medical or nursing attendants and by the available means which are appropriate and suitable. The department may pay return transportation of an individual and appropriate medical and nursing attendants. When practicable, one or more relatives or friends of the individual to be treated shall be permitted to accompany the individual. The department may pay necessary travel, housing and meal expenses incurred by one relative or friend in accompanying the individual to the facility if the department determines

(1) that the best interests of the individual's health require that the individual be accompanied by the relative or friend;

(2) the relative or friend accompanying the individual is indigent. (§ 2 ch 165 SLA 1978)

Sec. 47.80.170. Provision for personal needs upon discharge. The department shall make arrangements which are necessary to ensure that

(1) no patient is discharged or placed on convalescent status from a designated facility without suitable clothing; and

(2) an indigent patient discharged or placed on convalescent status is furnished suitable transportation to the patient's permanent residence in this state or other suitable place at the discretion of the department, and a reasonable amount of money to meet immediate needs. (§ 2 ch 165 SLA 1978)

Article 4. General Provisions.

Section

900. Definitions

Sec. 47.80.900. Definitions. In this chapter

(1) "council" means the Governor's Council for the Handicapped and Gifted created by AS 47.80.030;

(2) "department" means the Department of Health and Social Services;

(3) "facilities for persons with handicaps" means publicly or privately operated facilities, or specified portions of facilities, designed primarily for the delivery of services to those persons; the term includes but is not limited to residential facilities;

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(4) "habilitation" means education or training for the handicapped to enable them to function better in society;

(5) "least restrictive setting" means a residential or other setting for meeting the needs of a handicapped person which requires the least amount of restriction of personal liberty by enabling the person to function in as normal an environment as possible and to live as normally as possible, within the limitations of the handicap;

(6) "person with a handicap" means a person with a developmental disability as defined in (7) of this section or a person who is hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically or otherwise health impaired, or who has a specific learning disability; the term includes but is not limited to "exceptional children" as defined in AS 14.30.350(1) and AS 47.20.050;

(7) "person with a developmental disability" means a person having a disability which

(A) is attributable to

(i) mental retardation, cerebral palsy, epilepsy, or autism;

(ii) any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to impairment resulting from mental retardation; or

(iii) dyslexia resulting from a disability described in (i) or (ii) of this subparagraph; and

(B) constitutes a substantial handicap to the person's ability to function normally in society;

(8) "residential facility" means a publicly or privately operated facility which provides 24-hour care for four or more persons with handicaps, excluding family, foster family, or adoptive homes;

(9) "substantial handicap" means a disability which prevents or substantially impedes the person's participating in and benefiting from the social, economic, educational, recreational, or other opportunities generally available to peers in the community who are not similarly handicapped. (§ 2 ch 165 SLA 1978)

NOTES TO DECISIONS

Stated in *In re K.M.L.*, Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).